

TWENTY-SECOND DAY.

Senate Chamber,
Austin, Texas,
February 7, 1935.

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor Walter F. Woodul.

The roll call disclosed a quorum, the following Senators being present:

Beck.	Moore.
Blackert.	Neal.
Burns.	Oneal.
Collie.	Pace.
Cotten.	Poage.
Davis.	Rawlings.
DeBerry.	Redditt.
Duggan.	Regan.
Fellbaum.	Sanderford.
Hill.	Shivers.
Holbrook.	Small.
Hopkins.	Stone.
Hornsby.	Westerfeld.
Hughston.	Woodruff.
Martin.	

Absent—Excused.

Sulak. Van Zandt.

Prayer by the Chaplain.

Further reading of the Journal was dispensed with on motion of Senator Martin.

Committee Reports.

(See Appendix.)

Minutes of Committee Meetings.

(See Appendix.)

Senators Excused.

On motion of Senator Cotten, Senator Van Zandt was excused for today and tomorrow on account of important business.

On motion of Senator Hill, Senator Sulak was excused on account of illness.

**Reports and Recommendations of the
Senate Committee Investigating
Crime.**

43rd Texas Legislature
1933-1934

**Investigating Certain Violations
of the Laws of the State of
Texas**

(Seal)

Members of Committee

Senator J. W. E. H. Beck, Chairman

Senator Frank H. Rawlings,
Vice-Chairman

Senator Wilbourne B. Collie,
Secretary

Senator W. R. Poage

Senator Will M. Martin

Honorable Frank Tirey, Attorney

Senator Beck sent up the report of Crime Investigating Committee and received unanimous consent to print in pamphlet form and not be printed in the Journal.

Committee Report.

Austin, Texas, Feb. 2, 1935.

His Excellency, Governor James V. Allred,

Hon. Walter F. Woodul, President of the Senate,

Hon. Coke R. Stevenson, Speaker of the House, and

The Legislature of the State of Texas.

Sirs: Pursuant to S. R. No. 26, adopted by the Senate of Texas on the 25th day of September, A. D., 1934, we, your committee appointed under said resolution, beg leave to report as follows:

The committee met in the Senate Finance Room on October 1, 1934. Those present were: Beck, Collie, Poage, Rawlings, Martin. Senator J. W. E. H. Beck was elected Chairman; Senator Frank H. Rawlings, Vice-Chairman; Senator Wilbourne B. Collie, Secretary, and Hon. Frank B. Tirey was elected to act as Attorney for the committee.

The committee begs to transmit this preliminary report.

Introduction.

The committee, in the short space of time allotted to it, has made an honest effort to investigate crime in every part of Texas. It has had the co-operation of district clerks and other officers in the great majority of the counties of Texas, who gave valuable information concerning what the court records show as to various crimes in this state. The court records investigated by this committee cover a period of time from June, 1933, to September 30, 1934. The committee has had some of the outstanding citizens of Texas; judges, lawyers, merchants, ministers, county and state officials; in fact, people from every walk of life, to come before it and testify as to law violations and as to law enforcement in various counties and localities in this State. Numerous conferences were held with leading students and thinkers in this field. Much valuable information on these subjects was derived from these and from correspondence, as well as personal study by, and knowledge of, the members of the committee.

This committee has in its files more than three thousand pieces of documentary evidence bearing upon law violations, and the failure to enforce the law in this State. To include this documentary evidence would make this report too voluminous, but it is deposited where it is accessible for any further studies. We hope that what is presented here may contribute in some measure to present a true picture of the situation in Texas as to crime violations and enforcement of law.

The committee has tried to secure this information in the hope of making some helpful suggestions to this Legislature in regard to strengthening the penal laws of Texas and simplifying Criminal Procedure.

The committee particularly has studied, in keeping with the mandate of Senate Resolution No. 26, disregard for liquor prohibition laws; gambling; efforts or lack of efforts of officers to enforce the laws; how disrespect has led to further violations and other subjects. Investigators have brought us reports from a majority of the counties of Texas

bearing upon these and other subjects.

In addition we have correlated data on the crimes of murder, robbery, burglary, driving while intoxicated, etc.

We discovered, and report upon more fully herein, that certain officers were making a racket out of enforcing the highway laws.

Considerable time was devoted to the investigation of violations of the cigarette stamp tax law, including the evasion of the tax, and the traffic in counterfeit stamps. At this time there is much to be added upon this subject, hence a report upon our findings must be reserved for a later date.

Attention was devoted to investigating certain sections where it appears that the officers are in collusion with the criminal element, and encouraging and making possible violations of the law in order that the officers might profit.

In the following pages are grouped the committee's findings, in convenient category, covering those subjects upon which it was possible to present pertinent findings of fact.

The committee desires to emphasize that it has devoted less than three months to a survey upon which many more months might profitably have been spent. Individual members of the committee have had their private businesses, as well as the work of the committee. Despite the limited time, however, the committee presents such evidence as has been found.

We wish here to express our appreciation to state officials, private citizens and the scores of volunteers who have helped up in a task which would have been physically impossible except for their assistance.

Administration of Laws.

The committee's inquiry into the shortcomings of the administration of justice, which was enjoined upon us in the resolution, necessarily involves the duty of investigating the justice of complaints, very often made, that in their zeal to accomplish results, some officials themselves frequently lose sight of the fact that they are servants of the law, subject to its mandates and pec-

cularly charged with the duty to observe its spirit and its letter. They should always remember that there is no more sinister sophism than that the end justifies the employment of illegal means to bring offenders to justice. We have found that in many sections the law enforcement machinery is suffering from many infirmities arising out of its technicalities, its circumlocutions, its involved procedures, and much too often from inefficient and delinquent officials.

The following report, in which is quoted some of the accumulation of evidence in our files, deals with abuses of power by inefficient, delinquent, and dishonest officials. These abuses have not risen from excessive or misguided zeal to enforce the law, or to win applause when popular clamour demands the rigid enforcement of a particular law. It is axiomatic that respect for law which is the fundamental prerequisite of law observance, can hardly be expected of the people in general if the officials charged with enforcement do not set the example of obedience to its precepts.

To effectuate the desired results, the people of the Commonwealth of Texas should make demand of those entrusted to seats of guardianship and power that first they prove themselves in possession of minds trained to understand and appreciate the practical economic, social and political problems of the age, and that they have hearts that beat in unison with the pulse beats of a progressive humanity.

Analysis of Crime.

This analysis of the crime wave is an honest effort to set out the facts as they are found in the records of the committee. It is apparent:

1. That the criminal is made by the violation of law, whether or not he is ever apprehended. Therefore the yardstick for measuring the extent of crime should be the number of violations of the law, rather than the number apprehended for violations.

2. Officers have no moral or legal right to ignore violations of the law on the theory that the law is unpopular locally.

3. Neither do officers have the legal or moral right to question the

propriety of a law. Whether a law is wise or just is the responsibility of the Legislature, and members of the Legislature must answer to the people. When an officer, by his attitude toward enforcement, attempts to say that a law is wise or unwise, he usurps the function of other branches of the government and at the same time fails at his own job.

4. Laws are enacted for the protection of the life and property of the people.

5. After an officer has made an arrest he should exert his best efforts to produce substantiating evidence that will prove his case. Too often the officer considers his job finished when the arrest is made.

A re-statement of these fundamentals roughly divides the responsibility for law enforcement directly between the Legislature and the enforcement officers.

It is the legislature's function to enact those laws demanded by public opinion—and repeal those laws which are condemned by the same public opinion. It is the officers' function to enforce the law without prejudice or bias.

This statement, made to the committee by the officials of one of Texas' largest cities, should give pause to all Texas legislators and law enforcement officers: "There has been little or no progress made in the suppression of crime during the past two years."

If true—and the findings of this committee largely substantiate it—members of the Texas Legislature, and law enforcement officers of Texas, should take stock of themselves, lodge the responsibility, and take the necessary corrective steps.

Criminal Statistics.

The committee feels that it is of value to present here official and trustworthy statistics of crime; that is, the number of those which have been sufficiently solved to justify the return of an indictment, and following that, the number of trials, the number convicted, and the number acquitted; as well as the number of cases that have been dismissed, and of those yet pending for trial.

These statistics have been accumulated from as reliable and systematic method as was possible during the period of our service.

Statistics are of much importance, because they may form the beginning of a study on the subject, and such data can be had for the State as a whole, and be available henceforth for use of state authorities in the enforcement of state laws.

A proper system of gathering, compiling, and reporting of statistics of crime, of criminals, of criminal justice of proper identification and classification, is of great need, and will be of much value in this State. There should be a comprehensive plan for an ultimate complete compilation of statistics covering crime, criminals and criminal justice, and all steps toward organizing the gathering, compiling, and publication of statis-

tics that they may be evolved into the ultimate unification of the State. The committee feels that the proper method of gaining this material is through a state organization, broad in scope, and will be one of the subdivisions to be recommended under the State organization to be known as "Department of Public Safety."

The following statistics on liquor violations were compiled from reports of the district clerks of 225 Texas counties, showing the number of indictments and the disposition thereof from June 1, 1933, to September 30, 1934. The first column in the following table is the number indicted for all felonies and is placed in this report for comparison only.

LIQUOR VIOLATIONS.

	No. Indicted All Offenses	Indicted Liquor Violations	Sentenced to Pen	Suspended Sentences	Not Guilty	Dismissed	Pending 9-30-34
Anderson	115	20	0	6	1	9	4
Andrews	4	0	0	0	0	0	0
Angelina	88	37	4	8	2	23	0
Aransas	1	0	0	0	0	0	0
Archer	16	2	0	1	0	0	1
Armstrong		Not reported by District Clerk.					
Atascosa	52	0	0	0	0	0	0
Austin	76	1	0	0	0	0	1
Bailey	0	0	0	0	0	0	0
Bandera	8	1	0	0	0	0	1
Bastrop	87	4	0	0	0	0	4
Baylor		Not reported by District Clerk.					
Bee	32	0	0	0	0	0	0
Bell	123	7	1	0	0	1	5
Bexar	1,081	0	0	0	0	0	0
Blanco	10	0	0	0	0	0	0
Borden	0	0	0	0	0	0	0
Bosque	101	26	2	12	1	11	0
Bowie	274	53	2	8	0	11	32
Brazoria	42	4	0	2	0	1	1
Brazos	117	7	2	0	0	2	3
Brewster	47	3	0	0	0	0	3
Briscoe	27	4	1	0	0	1	2
Brooks	11	0	0	0	0	0	0
Brown	113	20	0	2	0	4	14
Burleson	42	0	0	0	0	0	0
Burnet	44	12	0	6	0	0	6
Caldwell		Not reported by District Clerk.					
Calhoun	27	0	0	0	0	0	0
Callahan	33	1	0	1	0	0	0
Cameron	146	24	3	12	0	0	9
Camp	32	10	0	0	0	0	10
Carson	17	1	0	0	0	0	1
Cass		Not reported by District Clerk.					

	No. Indicted All Offenses	Indicted Liquor Violations	Sentenced to Pen	Suspended Sentences	Not Guilty	Dismissed	Pending 9-30-34
Castro		Not reported by District Clerk.					
Chambers	17	1	0	0	0	0	1
Cherokee	143	71	13	22	1	27	8
Childress	27	12	3	2	1	6	0
Clay	74	4	1	0	0	1	2
Cochran	3	1	1	0	0	0	0
Coke	10	1	1	0	0	0	0
Coleman	67	6	0	2	0	1	3
Collin	478	177	31	23	8	40	75
Collingsworth	30	7	0	2	0	0	5
Colorado	40	0	0	0	0	0	0
Comal	68	1	1	0	0	0	0
Comanche	71	22	5	0	0	8	9
Concho	18	1	0	0	0	0	1
Cooke	133	12	0	2	1	0	9
Coryell	58	6	1	1	1	1	2
Cottle	29	6	1	3	0	2	0
Crane	11	1	0	0	0	0	1
Crockett	5	0	0	0	0	0	0
Crosby	31	13	1	4	0	0	8
Culberson	25	2	0	0	0	1	1
Dallam	32	4	1	0	0	0	3
Dallas		Reported but not tabulated.					
Dawson	13	4	1	2	0	1	0
Deaf Smith	37	7	3	0	0	0	4
Delta		Not reported by District Clerk.					
Denton	160	34	7	0	1	7	19
DeWitt	51	0	0	0	0	0	0
Dickens	76	3	0	0	0	2	1
Dimmitt	7	0	0	0	0	0	0
Donley	12	2	0	2	0	0	0
Duval	21	0	0	0	0	0	0
Eastland	122	31	0	2	1	11	17
Ector	17	0	0	0	0	0	0
Edwards	3	0	0	0	0	0	0
Ellis	216	10	1	0	0	1	8
El Paso	298	3	1	0	1	1	0
Erath		Not reported by District Clerk.					
Falls		Not reported by District Clerk.					
Fannin	224	63	1	12	5	19	26
Fayette	49	3	1	0	0	1	1
Fisher	43	2	1	1	0	0	0
Floyd	60	8	0	1	4	3	0
Foard	40	6	2	0	0	1	3
Fort Bend	62	1	0	0	0	0	1
Franklin	59	18	9	0	1	4	4
Freestone	161	69	10	37	3	13	6
Frio	20	0	0	0	0	0	0
Gaines	4	0	0	0	0	0	0
Galveston		Not reported by District Clerk.					
Garza	16	2	1	1	0	0	0
Gillespie	26	0	0	0	0	0	0
Glasscock	2	0	0	0	0	0	0
Goliad	19	0	0	0	0	0	0
Gonzales	58	2	0	2	0	0	0
Gray	78	12	0	0	0	9	3

	No. Indicted All Offenses	Indicted Liquor Violations	Sentenced to Pen	Suspended Sentences	Not Guilty	Dismissed	Pending 9-30-34
Grayson	677	108	2	19	4	19	64
Gregg	506	15	0	1	1	12	1
Grimes	79	23	2	6	0	3	12
Guadalupe	75	2	0	1	0	0	1
Hale	73	6	0	2	0	3	1
Hall	46	4	1	1	0	1	1
Hamilton	61	18	3	0	0	6	9
Hansford	13	0	0	0	0	0	0
Hardeman	117	20	2	2	1	11	4
Hardin	38	1	0	0	0	0	1
Harris	Not reported by District Clerk.						
Harrison	Reported but not tabulated.						
Hartley	4	1	0	0	0	1	0
Haskell	Not reported by District Clerk.						
Hays	77	13	1	0	0	0	12
Hemphill	Not reported by District Clerk.						
Henderson	130	39	0	3	1	5	30
Hidalgo	Not reported by District Clerk.						
Hill	Not reported by District Clerk.						
Hockley	7	1	0	0	0	0	1
Hood	36	10	1	0	0	2	7
Hopkins	129	49	7	14	0	14	14
Houston	171	40	3	5	2	23	7
Howard	98	18	2	5	1	9	1
Hudspeth	5	0	0	0	0	0	0
Hunt	264	87	21	23	0	11	32
Hutchinson	54	8	1	0	0	0	7
Irion	11	0	0	0	0	0	0
Jack	45	13	3	3	2	3	2
Jackson	25	2	0	1	0	0	1
Jasper	43	1	0	0	0	0	1
Jeff Davis	Not reported by District Clerk.						
Jefferson	634	34	0	0	0	9	25
Jim Hogg	8	1	1	0	0	0	0
Jim Wells	26	0	0	0	0	0	0
Johnson	204	42	21	0	3	7	11
Jones	141	35	4	12	2	8	9
Karnes	26	0	0	0	0	0	0
Kaufman	Not reported by District Clerk.						
Kendall	9	2	0	2	0	0	0
Kenedy	0	0	0	0	0	0	0
Kent	22	0	0	0	0	0	0
Kerr	9	0	0	0	0	0	0
Kimble	37	1	1	0	0	0	0
King	4	0	0	0	0	0	0
Kinney	16	0	0	0	0	0	0
Kleberg	36	0	0	0	0	0	0
Knox	59	20	3	8	0	1	8
Lamar	217	95	12	30	4	29	20
Lamb	38	5	0	2	0	1	2
Lampasas	38	7	0	2	0	0	5
LaSalle	23	0	0	0	0	0	0
Lavaca	21	1	0	0	1	0	0
Lee	23	0	0	0	0	0	0
Leon	78	28	0	4	0	4	20

	No. Indicted All Offenses	Indicted Liquor Violations	Sentenced to Pen	Suspended Sentences	Not Guilty	Dismissed	Pending 9-30-34
Liberty	194	14	0	5	0	8	1
Limestone	141	18	5	3	0	3	7
Lipscomb		Not reported by District Clerk.					
Live Oak	26	2	0	0	0	2	0
Llano	25	1	1	0	0	0	0
Loving	0	0	0	0	0	0	0
Lubbock		Not reported by District Clerk.					
Lynn	43	19	1	6	0	2	10
Madison	30	2	0	0	0	1	1
Marion	71	6	0	0	0	5	1
Martin	8	0	0	0	0	0	0
Mason	16	3	0	2	0	0	1
Matagorda	48	3	1	2	0	0	0
Maverick	11	0	0	0	0	0	0
McCulloch	58	17	3	1	1	5	7
McLennan	381	0	0	0	0	0	0
McMullen		Not reported by District Clerk.					
Medina	28	0	0	0	0	0	0
Menard	9	0	0	0	0	0	0
Midland	20	0	0	0	0	0	0
Milam	162	6	5	1	0	0	0
Mills	65	13	3	3	0	5	2
Mitchell	31	7	0	0	2	5	0
Montague	133	64	11	12	3	32	6
Montgomery		Not reported by District Clerk.					
Moore		Not reported by District Clerk.					
Morris	38	8	1	3	0	1	3
Motley		Not reported by District Clerk.					
Nacogdoches	87	31	1	14	7	9	0
Navarro		Not reported by District Clerk.					
Newton	41	7	4	0	0	3	0
Nolan	44	6	1	0	0	4	1
Nueces	136	41	1	2	0	36	2
Ochiltree	6	0	0	0	0	0	0
Oldham	5	1	1	0	0	0	0
Orange	29	5	1	1	0	0	3
Palo Pinto	90	6	0	0	0	1	5
Panola	130	62	5	11	2	40	4
Parker	213	30	5	0	0	19	6
Parmer	25	3	0	0	0	1	2
Pecos	32	4	0	0	0	3	1
Polk	193	40	4	10	0	8	18
Potter	223	37	5	8	5	13	6
Presidio	17	0	0	0	0	0	0
Rains	35	25	6	7	0	1	11
Randall	15	5	0	3	0	0	2
Regan	4	0	0	0	0	0	0
Real	2	0	0	0	0	0	0
Red River	179	54	3	25	1	3	22
Reeves	43	5	1	0	0	2	2
Refugio	27	0	0	0	0	0	0
Roberts	2	0	0	0	0	0	0
Robertson		Not reported by District Clerk.					
Rockwall	38	0	0	0	0	0	0
Runnels	26	8	3	3	0	1	1

	No. Indicted All Offenses	Indicted Liquor Violations	Sentenced to Pen	Suspended Sentences	Not Guilty	Dismissed	Pending 9-30-34
Rusk	303	42	0	14	0	1	27
Sabine	0	0	0	0	0	0	0
San Augustine	45	7	0	0	0	1	6
San Jacinto	110	31	7	0	1	5	18
San Patricio	43	4	0	3	0	0	1
San Saba	25	3	0	2	0	0	1
Schleicher	0	0	0	0	0	0	0
Scurry	25	4	0	0	0	1	3
Shackelford	9	1	0	0	0	0	1
Shelby	196	100	7	35	7	19	32
Sherman	4	0	0	0	0	0	0
Smith	437	82	10	5	0	23	44
Somervell	39	6	5	0	0	1	0
Starr	18	0	0	0	0	0	0
Stephens	26	2	0	0	0	0	2
Sterling	7	1	1	0	0	0	0
Stonewall	33	6	0	2	1	3	0
Sutton	8	0	0	0	0	0	0
Swisher	30	9	2	2	0	3	2
Tarrant	1,230	49	0	1	0	34	14
Taylor	284	74	12	7	4	22	29
Terrell	9	0	0	0	0	0	0
Terry	43	16	4	4	1	0	7
Throckmorton	23	1	0	1	0	0	0
Titus	114	41	3	19	1	12	6
Tom Green	Not reported by District Clerk.						
Travis	356	17	0	1	0	4	12
Trinity	69	5	0	2	0	3	0
Tyler	15	0	0	0	0	0	0
Upshur	162	54	12	14	1	15	12
Upton	Not reported by District Clerk.						
Uvalde	37	6	3	0	0	1	2
Val Verde	50	1	0	1	0	0	0
Van Zandt	162	47	2	15	9	10	11
Victoria	54	0	0	0	0	0	0
Walker	74	18	2	7	0	2	7
Waller	40	2	0	0	0	0	2
Ward	14	1	0	0	0	0	1
Washington	57	0	0	0	0	0	0
Webb	93	2	0	1	0	1	0
Wharton	35	2	0	1	0	0	1
Wheeler	55	17	1	0	0	0	16
Wichita	86	5	0	0	1	0	4
Wilbarger	48	38	0	2	0	33	3
Willacy	23	0	0	0	0	0	0
Williamson	135	1	0	0	0	1	0
Wilson	35	0	0	0	0	0	0
Winkler	5	1	1	0	0	0	0
Wise	323	59	10	11	1	19	18
Wood	196	94	22	14	2	30	26
Yoakum	6	0	0	0	0	0	0
Young	Not reported by District Clerk.						
Zapata	5	0	0	0	0	0	0
Zavalla	3	0	0	0	0	0	0
Total	18,926	3,016	380	609	104	862	1,061

The Cost of Crime.

The economic and financial aspects of the problem of crime are of obvious importance. Not only is the economic background of the criminal of significance to the people in any analysis of causative factors in criminality, but the financial effects of crime as reflected in the cost of crime and criminal justice are matters of interest not only to the Legislature, but to the public generally; first, as indicating the importance to the community from a monetary standpoint, of the adequate control of crime; and second, as bearing upon the question of efficiency and economy in the administration and enforcement of the criminal law.

Many articles have been written estimating the cost of crime in Texas and in the Nation. In a very broad sense the "cost of crime" might perhaps be regarded as extending beyond general economic loss and individual financial burden to those imponderable elements of human wastage which are of vital social importance in connection with crime. How is the cost of crime to be determined? There are many factors which enter into this computation, and it is doubtful if any definite way of ascertaining the cost is practicable. Such costs as expenditures for administration of criminal justice; private expenditures for protection against crime; private losses due to criminal acts; losses to the State due to criminal acts; and indirect losses to the community as a whole are due to the existence of crime.

The cost of administration of criminal justice would include: (a) the cost of police; (b) the cost of prosecution; (c) the cost of criminal courts; and (d) the cost of penal and corrective treatment of convicted criminals.

Most of the cost of private expenditures for protection against crime fall into three classes: (a) expenditures for protective agencies and devices for the purpose of preventing crime; (b) expenditures for the detection of crime; and (c) expenditures for penal and corrective treatment.

The private losses due to criminal acts may be divided into four classes: (a) losses due to crimes against the person; (b) losses due to direct

crimes against property; (c) losses due to other crimes affecting wealth; (d) losses incidental to the administration of criminal justice; and (e) the cost of insurance against criminal acts. The last of these cannot, strictly speaking, be classified as a loss due to criminal acts, but represents rather than the cost of indemnity against such acts.

Losses to the State due to criminal acts may also be sustained as a result of crime. Losses may be suffered by the State as a property owner, which are no different in character than similar losses to private individuals, and losses due to frauds on revenue.

In addition to the immediate losses to individuals and to the State, there are certain indirect losses to the community which are definitely traceable to crime. Such indirect losses include: (a) the loss of productive labor of persons engaged in criminal pursuits; (b) the loss of productive labor of persons imprisoned for crime; (c) the loss of productive labor of persons engaged in the enforcement of the criminal law; and (d) a variety of other losses of productive labor and of losses due to the uneconomic use of valuable materials and machinery. While these indirect losses are of large magnitude, in no case can their amount be accurately ascertained.

The fact that no single lump-sum figure for the cost of crime to the State can be worked out does not seem to us to impair the usefulness of this reference. It should not require the finding of some striking total figure to dramatize the problem of reducing the wastes of crime, economic and social. It could be stated definitely and conclusively, however, that this total cost would surmount all the other costs of maintaining the State Government, including its schools, its administration and activities. Definite information of the total cost would require an expenditure of vastly more time and money in investigation than has been available to this Committee in connection with the study of the problem and the preparation of this report.

Data as to costs furnish no direct aid in the solution of problems of law enforcement. Ascertainment of

facts as to the economic effects of crime and as to the financial aspects of criminal justice is merely one of the steps necessary in order to make it possible to survey the crime problem as a whole.

Murder and Kindred Crimes.

The offense of murder, and the startling number of homicides committed in this state, should not escape our attention in this report.

It is true that generally we have sufficient laws covering the offense of murder, but there is something radically wrong when there are more than 4000 indictments returned for murder within a period of five years in Texas. These figures are taken from the Senate Fee Investigating Committee and show the following results: 1,259 were dismissed without trial, 564 defendants were acquitted, 57 drew the death penalty, 1,127 penitentiary sentences, and 369 suspended sentences.

Human life in Texas is cheap. Men are slain in this alleged Christian land for less silver than led Judas to betray his Christ. It has been said that more people are murdered in Texas within a year than were murdered in the British Empire and several other European nations all combined over a period of years. This appalling contrast but emphasizes the necessity for an immediate and effective remedy for the present laxity in the enforcement of the laws we have. We have in this State too many killings and too few convictions. Long delays in the trial and appeal of criminal cases has had a most unwholesome effect on law enforcement. It takes almost two years to dispose of the average hotly-contested criminal case in Texas, and a large percentage of them have to be tried the second or third time, at which trial the defendant, having worn out the State's case, is found not guilty, or his case dismissed.

It is difficult to place general responsibility for the number of homicides committed in our State, but it is certain that, as has been said by the Founders of the Law Institute: "two chief defects in American law are its uncertainty and its complexity."

It has been observed that in some sections the people have become so

impatient with the system of our courts in dealing with murderers and robbers, they have substituted mob law for the effective ministers of justice. One specific instance was given to the Committee where a defendant, charged and convicted of murder, while in the course of a highway robbery, and given the death penalty, was hanged by a mob for the reason that his case had been on appeal for practically two years, and during the time of his appeal he had murdered his caretaker and guard. Mob rule, of course, cannot be condoned, and public sentiment must be aroused to curb lawlessness in a lawful manner. Lynchings by mobs tend to show an aroused public, but their acts are unlawful as the one whose dastardly crime caused his undoing.

The organic and statutory laws of the land are the pillars of the temple of liberty and justice. If they are no longer availing, new laws should be enacted, or the temple will fall. Reason, unimpassioned, must furnish the materials, and they must be moulded into general intelligence, sound morality, and in particular, a reverence for the Constitution and laws of Texas.

Upon the institution of orderly society let the proud fabric of freedom and safety rest as the rock of its basis, and as truly as has been said of the only Greater Institution, "the gates of hell shall not prevail against it."

Kidnapping.

The offense of kidnapping for ransom, or for any other purpose, is one of the most heinous and diabolical onslaughts on civilized safety. It is now one of the most sinister crimes being perpetrated in this civilized land. Texas has not escaped the fangs of organized gangs, who have placed this racket on a scientific, organized national basis. These gangs have pervaded the country from the Atlantic to the Pacific, from the Rio Grande to the Dominion of Canada; they are no longer peculiar to the north or south, to the east or west. Whatever, then, their cause may be, it is common to the whole country. Texas ought to stop their migration into our borders and eradicate those that are here.

Reports on file with this Committee disclose the fact that within the

past year ten kidnappings have occurred in Texas, while in one or more instances the kidnapping has occurred in another state and the victim brought to Texas and held for ransom.

To what throw-back in humanity or flaw in civilization the world owes its Baileys, Bates, Kelleys, Dillingers, et al., is a matter of divergent opinions. But certainly it is an evil outcropping which example spreads and will spread, until the officers of the law are ever vigilant to apprehend them, and when caught, juries will act sternly to convince these predatory outlaws that property and life are sacred, and that when such an offender is found guilty, he has forever forfeited his life and right to again walk in the society of a civilized and peaceful citizenship.

Highway Law Enforcement.

Certain constables and other officers interested in collecting fees are creating an unsavory reputation for Texas among motorists, not only from this state, but from distant states. These fee-grabbing officials are making a livelihood out of a purported enforcement of road laws in a manner absolutely un contemplated by the Legislature.

This assertion is based upon investigation of numerous so-called "speed traps" in various section of Texas.

We cite one instance of a justice of the peace who has tried 1,500 traffic cases in eighteen months and collected fines ranging from \$13.50 upwards; the justice collecting a trial fee of \$2.50 in each case.

Another instance is a constable-special ranger whose "take" averaged \$500.00 per month.

The effect of such practices is reflected in correspondence from one Tennessee man—one of many from whom letters were received. Enraged at an unwarranted arrest while in Texas, this man cut short a vacation at Galveston. "I'm a confirmed 'stay-out-of-Texas' booster," he wrote.

The traps are directed particularly at truck drivers. The usual procedure is about as follows: The truck driver is hailed by un-uniformed men in a passenger car, who may be hi-jackers or officers. They motion the driver to stop, usually blowing a whistle. If he fears hi-jackers

and runs, they shoot off his tires. When the truck is finally stopped, a printed list is produced of possible violations, numbering about twenty. The truck is checked from bumper to differential. Numerous papers must be displayed by the driver. If nothing wrong is found, the driver is booked for speeding. A speeding ticket is a last resort, since the fine for speeding is less than for the numerous other offenses set up by the Railroad Commission regulations.

Brought before a justice of the peace, the driver is told the amount of the fine, usually without being given a chance to plead his guilt or innocence. The minimum fine is \$13.50. That includes \$2.00 for arrest, 75 cents each for subpoenaing two witnesses, \$1.00 for release, from \$2.50 to \$4.00 for trial fee and \$5.00 for the county attorney. And in many cases, more witnesses are subpoenaed, \$1.00 charged for commitment, and \$1.50 for making bond, and no bond taken.

In numbers of instances witnesses are relatives of the arresting officer. In at least one court the arresting officer made a practice of subpoenaing himself in every instance and testified before the committee that he read the subpoena to himself in every instance. In this connection it should be remembered that it is the officer's sworn duty to insist, in the enforcement of laws, that the subpoena is presumed to be issued for the purpose of assuring the attendance of the witness. When questioned on this phase, the judge presiding in one of these courts for revenue only, testified that he never issued a subpoena except when he thought it would enable him to more fairly pass upon the guilt or innocence of the defendant, but in this same court it developed that the witnesses always included the arresting officers, who were present in the court room with their friends and relatives, and that on very few occasions did anyone ever actually testify.

It apparently does not matter whether there were actual witnesses to the alleged offense; whether subpoenas were actually served on these witnesses; whether anyone was committed; whether bond was made. The costs are added to the fine, regard-

less of circumstances. As for the county attorney's fee of \$5.00, he usually is miles from the scene and never hears of the case until he receives his pay.

Rather than attempt to assert his rights, the motorist, in a strange town, among strange people, usually pays. He is threatened with what one witness termed spending the night in "your lousy jail"; he faces indefinite delay; the expense of employing an attorney. Moreover, if he is a truck driver, he has schedules to meet; possibly is carrying perishable merchandise.

Among the cases of offending officers are: constables, justices of the peace, "Special rangers" and special deputy sheriffs who obtained their badges solely for the purpose of setting up a speed trap and city motorcycle officers.

It is noted that in no event does one of these officers arrest a citizen voting in his precinct. He seldom arrests a citizen of his county. Only infrequently are Texas cars stopped, except trucks; and the greater number of arrests by far are out-of-state motorists.

In addition to the general practice of arresting solely for fees, there are other practices having the "earmarks of criminality," such as holding roadside courts, with the fines collected by the arresting officers at the spot where the arrests are made. We have also found instances of impersonation of officers, where constables or special officers represented themselves to be the "high sheriff" or bona fide rangers.

The committee does not mean to imply that the Texas traffic laws should not be enforced; we do mean to assert that enforcement of this type was never contemplated when the laws were written. In eight out of ten cases, conservatively, which we investigated, there were serious doubts as to whether any violation actually occurred. The traffic and truck laws presumably were written for the protection of the traveling public, not for the purpose of furnishing a questionable means of livelihood for unscrupulous officers.

These matters should be investigated speedily by the grand juries in the counties where these rackets exist. Certainly if the law is wrong,

it should be changed; but far more good would be accomplished, we believe, through prosecution of those who deliberately warp the law to meet their own ends.

Automobile Theft.

There are many excellent police departments in the State of Texas exerting every energy to enforce the laws of Texas. From a report made by a captain to his chief of one of these excellent departments we quote in part as follows: "Automobile theft is a continuing offense; that is, they are committed over and over again by the same person. A first offender before the court is seldom a first offender to the police. Most repeaters begin a life of crime with petty theft and gradually progress into the upper crime brackets. Adults seldom acquire the habit of stealing, and when an adult gets his introduction to a criminal court through the police for theft or burglary, it is practically always his first arrest, and almost never his first offense. More deserving juveniles and adults are given another chance by the police and are shown leniency by the courts, because in the trial of a case other than under habitual criminal act the law will not permit the introduction of a record of previous crimes; and confirmed criminals are often released for the police to catch in a criminal act again—and sometimes again and again. But no publicity is given to police leniency because publicity might jeopardize the chance for reform. The average number of automobile thefts committed in a month during the fiscal year of 1933-34 was 149 for this city. One hundred and ten automobile thieves at large on bond can keep this batting average up again this year with plenty of time for leisure. When, where and how they will strike along many hundreds of miles of streets and alleys in the city, or at which of the thousand's autos, is a problem which must be met by the police. This record further shows that for one month during 1934 of 176 cases filed for automobile theft with the following results: 20 convicted with penalties assessed ranging from a fine to eight years in the penitentiary, 46 were disposed of as pending, 18 no-billed by the grand jury, 16 dis-

missed by the District Attorney, 2 died, 7 received suspended sentences, 1 released by juvenile court, 2 paroled by juvenile court. Sixty-six were disposed of, 110 still pending, which makes a total of 176. This report also shows that in this city the average penalty for automobile theft is three years."

It is evident that automobile thefts throughout the State have reached large proportions, and in many instances local authorities cannot cope with the situation, due to excellent roads and the rapidity of automobile travel. A car could be stolen in Texarkana and in less than 24 hours could be in Mexico. It is therefore essential that this Legislature adopt some statewide organization that will cope with this situation. In another section of this report we are defining the State Department of Public Safety, which, in our opinion, will be very effective against this and other crimes.

Gambling Laws Statutory Provisions.

Article 619. (551) Penal Code.

Keeping or exhibiting gaming table or bank, etc.—If any person shall directly, or as agent or employee for another, or through any agent or agents, keep or exhibit for the purpose of gaming, any policy game, any gaming table, bank, wheel or device of any name or description whatever, or any table, bank wheel or device for the purpose of gaming which has no name, or any slot machine, any pigeon hole table, any jenny-lind table, or table of any kind whatsoever, regardless of the name or whether named or not, he shall be confined in the penitentiary not less than two nor more than four years regardless of whether any of the above mentioned games, tables, banks, wheels, devices or slot machines are licensed by law or not. Any such table, bank, wheel, machine or device shall be considered as used for gaming, if money or anything of value is bet thereon. (Acts 1907, p. 108. Acts 1913, p. 277.)

Article 623. (556) (387).

"Exhibited." The word "exhibited" is intended to signify the act of displaying the bank or game for the purpose of obtaining bettors.

Article 624—Provides that it shall

be unlawful for any person to bet or wager at any gaming table or bank, —at any of the following games, viz.: muggins, crack—100, or matching money or coins,—or at any game, "whatsoever name the same may be known, or whether named or not." And provides a penalty of a fine not exceeding \$50.00, and provides for a jail sentence when such wager is made on any gaming table.

Article 625. "If any person shall keep, or be in any manner interested in keeping any premises, building, room or place for the purpose of being used as a place to bet or wager, or to gamble with cards, dice or dominoes, or to keep or to exhibit for the purpose of gaming, any bank, table, alley, machine, wheel or device whatsoever, or as a place where people resort to gamble, bet or wager upon anything whatever, he shall be confined in the penitentiary not less than two nor more than four years."

Article 632.—Officers to suppress. —"Whenever it comes to the knowledge of any sheriff or other peace officer, by affidavit of a reputable citizen, or otherwise that any provision of the preceding articles of this chapter is being violated, such officer shall immediately avail himself of all lawful means to suppress such violation; and he shall be authorized, by any search warrant that is issued by virtue of this law, to enter any house, room or place to be searched, using such force as may be necessary to accomplish such purpose."

Article 633.—Provides that the justice of the peace, or any other magistrate, shall immediately issue a search warrant, and a warrant of arrest of all parties found in such premises.

Article 634.—"Gambling house public nuisance.—The existence of any gambling house or gaming table or bank or gaming paraphernalia or device of whatever kind or character, and all equipments of such gambling house, is hereby declared to be against public policy and a public nuisance."

Article 636.—Makes provision for the seizure of all gaming devices or paraphernalia, and to file a list of same, together with the name of the owner, or the persons from whom possession was taken. It provides for notice to the defendant to appear

and show cause why such articles should not be destroyed.

Article 637.—Makes provision for the destruction of said property upon order of the justice of the peace, county judge, or district judge before whom the cause is pending.

Article 640.—"Failing to prosecute.—If any justice of the peace, or recorder shall know the fact that an offense against the gaming laws has been committed by any person, and shall fail or neglect to cause such person to be arrested and prosecuted for the same, he shall be fined not less than twenty-five nor more than one hundred dollars."

Article 641.—"Peace officer failing to inform.—If any peace officer shall know that any person has committed an offense against the gaming laws, and shall neglect or fail to give information thereof to some justice of the peace, or recorder having jurisdiction to try such offense, he shall be punished by fine not less than twenty-five nor more than one hundred dollars."

Gambling—General.

Disregard for Texas laws prohibiting gambling is secondary only to the widespread disregard for liquor laws. This committee does not attempt to explain why liquor and gambling should go hand-in-hand; but asserts as a fact that in the same towns and hamlets and cities where liquor is sold openly, there gambling is done openly.

That open gambling has been flourishing in recent months is a matter of common knowledge; but the widespread extent of this evil was not surmised by this committee until its members had studied more than 3,000 pieces of documentary evidence and heard a number of witnesses, showing convincingly that the gambling fever rages from Oklahoma to the Gulf and from Arkansas to New Mexico.

Our files reflect that gambling flourishes with the full knowledge and consent of many public law enforcement officers. The evidence indicates that in many cases the officers' consent was obtained at a price. In these cases, some officers are cheap and others come high. One operator said he paid a certain constable \$14.50 every two weeks; another gambler, whose sphere of

operations is somewhat larger, reputedly pays a "higher up" \$1,000.00 a week, in addition to what he may have to pay local officers.

Not only do officers seemingly consent to this condition; there are some cases in our files where the officers themselves own the gambling houses. One deputy, questioned about his ownership of a gambling house, answered: "Sure, I thought it was all right. Everybody else does it."

The gambling covers a wide range—poker and dice the most popular. Slot machines, paying off in coins from a nickel to 25 cents, are quite generally distributed over the State, and are as common in drug stores as in the out-and-out gambling houses. Many gambling houses have bookies in connection with their regular games. Divers variations of the spinning wheel game are reported. The roulette wheel likewise is widespread but seems most popular in "night clubs" rather than in the small saloons. Most of the night clubs, particularly in the larger cities, have elaborate gambling layouts. Many of them rule against "deadheads" by requiring any one who enters the gaming room to buy chips.

In most larger centers—where the "pickings" are good—our investigators found a "boss" gambler. He would control all the gambling, sometimes the liquor, and often the prostitutes. Virtually every large city has one or more "big shots," and their status in the community seems a matter of common knowledge. Some of the smaller cities likewise have been invaded by these bosses. Inquiries of our investigators as to the prospect of opening up a gambling house or saloon invariably brought the reply, "You'll have to see ————". He handles all that stuff." Some of these racketeers have extended their operations to more than one town or city. It is a startling fact that they seem totally immune to punishment. Certainly prosecuting officers cannot be unaware of a condition familiar to every street urchin.

Bearing upon the connection between gambling and enforcement officers is this extract from a statement made voluntarily to this committee by a South Texas officer of unquestioned integrity:

"I was approached by a man who stated he was a State Ranger that if I would agree and promise to hands-off and permit him to open a first-class house and run gambling devices, he would make it interesting to me financially. He offered a relative of mine \$500.00 to be given to me." This statement was independently verified by an assistant to this officer who had been similarly approached and offered \$5,000.00 if he would "put the deal through." An interesting commentary was the fact that the gambler was willing to pay \$5,000.00 for "hands-off" for a period of only six months.

Because many of these gambling houses are in connection with "night clubs" and other dancing places, younger people, attracted there to dance, stay to gamble. An instance was furnished by one investigator who chatted with the woman proprietor of a saloon, gambling joint and dance hall in a Texas college town. She told him: "I cater only to the best people, college students, high school boys and girls, high class professional and business people." This is one class of patronage. Another class is described by a prominent citizen of South Texas who wrote the committee: "It is our opinion that the gambling houses in this county have a tendency to attract all the lawless element and floaters from the adjacent territory—car thieves, hi-jackers, confidence men, check forgers, bootleggers, and other like habitual law violators."

Thus the conclusion is inescapable; in the dance-hall-gambling-joint-saloon, young boys and girls are rubbing shoulders and touching elbows with the lowest class of criminals. It is a condition which certainly should not be tolerated by law-abiding citizens.

It is difficult to determine the attitude of many officers toward the situation; some try to enforce the law; others seem more concerned with preventing and obstructing enforcement, notifying gamblers when raids are to be made. In some places, gambling is so open that there is no necessity for the operators to pay off the officers.

To assimilate and reduce to precise statistics the mass of testimony collected by investigators for the committee would take much more

than the sixty days in which the committee has worked. Our investigators visited hundreds of hamlets, towns and cities, instructed to enter gambling places unostentatiously and report their findings. In each case the report is witnessed. The investigators were not instructed to make an exact and precise survey of every "joint" in every county; rather, to get a broad picture of conditions, with sufficient data to back up any general statements they might make concerning conditions in that county. The committee feels it could not do better than to report some of these comments. While the names of towns have been deleted, conditions seem general and the comment may be taken as fair comment when applied to virtually any section of the State.

From a seaport city: "Officers are openly allowing any kind of game of chance—dice, roulette, blackjack, coin slot machines. The slot machine racket is controlled by a party by the name of _____. He has them in every gambling house in the county."

From a college town: "Night club dice game operated by an exconvict. Liquor and dancing."

A north Texas agent reports: "I have been unable to gain entrance to the _____ (night club). We know they operate a very expensive gambling house with all kinds of games for any amount. This place has locked gates with guard on duty all night . . . There are never any raids made on this place when all the others nearby are raided. This place has protection somewhere."

In a western city: "Players are required to purchase \$50.00 chips before entering playing room."

Same city: "A matter of common knowledge this place has been in operation for years."

In the lower Valley: "I can find no evidence of the local police being paid off, but they know of the existence of the place—in fact it was recently moved by the police, as too much commotion was caused at the original location."

How a notorious night club is operated: "Mr. _____ has charge of the liquor concessions here, and gets his liquor from the _____ Drug Company. The justice of peace at _____, members of the sheriff's department and various cit-

izens tell me that (this particular place and another) are owned and operated by several men among whom are the following (names are given.)" Officering the place were two men identified as having ranger's commissions, and two with unknown commissions. The agent saw two city detectives and a special ranger enter while he was there. One of the owners of the place had charge of all slot machines in the county.

An unusual gambling club reported was where every person entering was looked over from the top of a stairs before being allowed to ascend. Doors were electrically controlled.

In a small town of far west Texas where the agent found black jack and dice going full blast: "Sheriff _____ was shaking dice for drinks when I saw him."

Testimony from a special report on an oil district: "There is an Al Capone in every town. (One man) handles horse races, gambling and women on the third floor of his saloon."

"This gambling house employs 19 people and the lowest bet taken is 10c, and the earnings for this one house are placed at \$4,000.00 per week."

In one community a "working agreement" between two species of gambling was reported. There the gambling house operators closed up shop during the horse racing season, so that suckers would be able to make their wagers only at the race tracks.

Slot Machine Racket

The slot machine racket, which has been sporadically endemic for many years, has assumed confluent malignant epidemic form. Our investigation covering 160 counties furnish positive information that there are many thousand slot machines now being operated in the State. Moreover, it appears from the evidence in the files of the Committee some operators own several hundred machines, and war among themselves for "franchise rights" to certain territories.

The classification "Slot Machine" covers all machines operated by inserting a coin in a slot, whether it is a penny, a nickel, a dime a quarter or a fifty cent piece; whether the

machine pays off in pleasure, merchandise, chips or cash.

These slot machines are found in hotels, drug stores, restaurants, gambling houses, bookie shops, confectioneries, saloons, depots, clubs and in a number of instances, in grocery stores.

These machines are being played by children barely tall enough to see the machine operate. In a number of instances, school children take their lunch money and lose it in the slot machines.

These one-armed hi-jackers produce a most deleterious effect on the mental hygiene of the young people of our State.

Our records show that slot machines are operating in most all counties investigated, but during the past fourteen months no indictment has been returned in these counties for violations of Articles 636 and 642 of the Texas Penal Code.

The following statement from our records is illuminating: "About the time the war between slot machine racketeers was at its height, members of the old ranks were fighting each other and individuals who were putting up a rather determined struggle to chisel in on some of the lucrative business. One big operator succeeded in getting a truck load of slot machines out of a local warehouse and carted them out of the city."

In a number of localities where these machines operate on a large scale, the slot machine owners are in league with the officers and pay the officers a certain per cent in order that they may operate their machines and keep out any other slot machines that may come into the community. In a number of cases the officers will destroy or confiscate only those machines which belong to operators who do not pay off.

Particularly does this racket exist in the larger cities and in the oil districts of Texas. The Committee also has information, which it considers reliable, that there is one man in Texas who operates at least eight hundred slot machines.

Article 647.—"Pool selling or bookmaking. No person, or any agent of any association or persons or any corporation, shall at any place in this State engage or assist in pool selling or bookmaking on any horse

race or by means of any pool selling or bookmaking take or accept any bet or aid any other person in betting or taking or accepting any bet upon any horse race to be run, trotted or paced in this State." (Acts 1909, p. 91.)

Article 649.—(579) "Using place for pool selling. No owner, agent, or lessee of any property in this State shall permit the same to be used as a place for selling pools or bookmaking or wagering or receiving or assisting any persons in placing any bet or in receiving or transmitting any offer to bet anything of value on any horse race to be run, trotted or paced at any place in this State or elsewhere." (Id.)

Article 650.—Provides a penalty of a fine not less than two hundred and not more than five hundred, together with a jail sentence of not less than thirty nor more than ninety days for the violation of the two preceding articles.

Bookies.

The files of our Committee show that the violations of the bookie law in Texas are most flagrant, indeed, and scores of counties in Texas suffer from the tentacles of this octopus. In one county, "we find twelve large bookie establishments with ramifications and sub-stations extending like a fan all over the city, taking thousands of dollars daily from families who are unable to enjoy this damnable pastime."

We quote from a very distinguished citizen of Texas, the following:

"Ninety per cent of these racketeers have come from Miami, Chicago, and Los Angeles. When our liquor laws were liberalized they took the liberty that was extended to Texas citizens as a license to come into our State, collect money that was due legitimate business and take it back home with them."

We quote from records in our files: "There has been a bookie operating in this city for a year or more, just moving from place to place. While same was operating inside of the city limits the police department made two raids but were unable to get anyone prosecuted. Finally the district judge issued an injunction and he moved outside of the city limits, at which place he has been

operating for some time. I now understand that the same judge issued an injunction against the sheriff's department making any arrests or molesting him in any way. The county attorney has been approached on this matter and refuses to prosecute. This, however, is not out of the ordinary as he has taken this attitude in many other cases of law violations."

This Committee has made personal inspections of bookie places where we found from twenty-five to one hundred people from all walks of life, men, women, and children with the women in the majority, and many of whom were illy-clad and from personal observation they needed more and better clothes and more nourishing foods. Yet, they were risking their little pittance in order that they might get a thrill.

Miscellaneous Gambling.

1. Dog Race Track. Our investigators reported the existence of dog race tracks in Texas. No authority in law exists for such tracks, or rather, for gambling upon the results of dog races.

A special ranger was working at the tracks. He assists in parking automobiles, guards money from the parimutuel to the bank, and quells any disturbance which may arise.

2. Lotteries. We find in some of the largest cities of Texas that lotteries have been conducted for varying periods of years. In one city we find that the operator has two drawings per day, the capital prize running as high as \$2,800.00 in instances.

This is flagrant disregard for the statutes and the Constitution, and cannot be excused on any ground. Lotteries are forbidden in the following language:

Article 111, Section 47, Constitution of the State of Texas, provides as follows:

"The Legislature shall pass laws prohibiting the establishment of lotteries and gift enterprises in this State, as well as the sale of tickets in lotteries, gift enterprises or other evasions involving the lottery principle, established or existing in other states."

Article 654 (533-4) Lottery. "If any person shall establish a lottery or dispose of any estate, real or per-

sonal, by lottery, he shall be fined not less than one hundred nor more than one thousand dollars; or if any person shall sell, offer for sale or keep for sale any ticket or part ticket in any lottery, he shall be fined not less than ten nor more than fifty dollars."

Article 655.—Makes it unlawful for any person to establish raffle. "Whoever shall offer for sale any chance, ticket or part ticket, in any raffle of any estate, real or personal of any value whatever, shall be fined not less than ten nor more than fifty dollars." (Acts 1909, p. 98.)

Constitutional Provisions and Laws of Texas Relative to the Sale of Liquor.

Art. 16, Sec. 20 (a). The manufacture, sale, barter or exchange in the State of Texas of spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication, or any other intoxicant whatever except vinous or malt liquors of not more than three and two-tenths per cent (3.2%) alcoholic content by weight, (except for medicinal, mechanical, scientific, or sacramental purposes) are each and all hereby prohibited. The Legislature shall enact laws to enforce this Section, and may from time to time prescribe regulations and limitations relative to the manufacture, sale, barter, exchange or possession for sale of vinous or malt liquors of not more than three and two-tenths per cent (3.2%) alcoholic content by weight; provided the Legislature shall enact a law or laws whereby the qualified voters of any county, justice's precinct, town or city may, by a majority vote of those voting, determine from time to time whether the sale for beverage purposes of vinous or malt liquors containing not more than three and two-tenths per cent (3.2%) alcohol by weight shall be prohibited within the prescribed limits; and provided further that in all counties in the State of Texas and in all political subdivisions thereof, wherein the sale of intoxicating liquors had been prohibited by local option elections held under the laws of the State of Texas and in force at the time of the taking effect of Section 20, Article 16, of the Constitution of Texas, it shall continue to be unlawful to manufacture, sell,

barter, or exchange in any such county or in any such political subdivision thereof, any spirituous, vinous or malt liquor or medicated bitters, capable of producing intoxication or any other intoxicant whatsoever, unless and until a majority of the qualified voters in said county or political subdivision thereof voting in an election held for such purpose shall determine it to be lawful to manufacture, sell, barter and exchange in said county or political subdivision thereof vinous or malt liquors containing not more than three and two-tenths per cent (3.2%) alcoholic content by weight, and the provision of this subsection shall be self-enacting. (Sec. 20, Art. 16, adopted election August 26, 1933.)

Art. 677. Makes it unlawful for any wholesale distributor to sell alcohol or wine, except in wholesale quantities, to persons having permits to purchase in such quantities. He is required to keep an accurate record of all sales . . . the kind of liquor contained therein, by whom manufactured, and the person to whom sold. It also provides that it is unlawful for any retail druggist or pharmacist to sell liquor without keeping a record giving the name of the doctor issuing the prescription, the amount, date of sale, the name and signature of purchaser, the person making this sale, and a copy of the prescription.

Art. 694-a of the Penal Code of the State of Texas now provides for:

"Section 1. (a) The manufacture, sale and distribution of vinous or malt beverages containing one-half percentum ($\frac{1}{2}\%$) or more of alcohol by volume and not more than three and two-tenths per centum (3.2%) of alcohol by weight is hereby authorized within the State of Texas, subject to the terms and conditions herein imposed.

"(b) Upon and after the effective date of this Act (15th day of September, 1935) in all counties in the State of Texas and in all political subdivisions thereof wherein the sale of intoxicating liquors had been prohibited by local option election held under the laws of the State of Texas and in force at the time of taking effect of Section 20, Article 16 of the Constitution of Texas, it shall continue to be unlawful to manufacture,

sell, barter or exchange in any such county or any such political subdivision of said county any vinous or malt liquors containing in excess of one per cent (1%) of alcoholic content by volume, unless and until a majority of the qualified voters in said county or political subdivision thereof voting at an election held for such purposes shall determine it to be lawful to manufacture, sell, barter or exchange in such county or in such political subdivision of said county any vinous and malt liquors containing not more than three and two-tenths per centum (3.2%) alcoholic content by weight.

"(c) Provided further that in all counties in the State of Texas and in all political subdivisions thereof wherein the sale of intoxicating liquors had not been prohibited by local option election held under the laws of Texas and in force at the time of the taking effect of Section 20, Art. 16 of the Constitution of Texas, it shall be lawful to manufacture, sell, barter or exchange in any such county or in any such political subdivision thereof vinous or malt liquors containing not more than three and two-tenths per centum (3.2%) alcoholic content by weight upon complying with the terms and conditions of this Act unless and until otherwise determined by a majority of the qualified voters voting in an election held in such county or held in such political subdivision thereof at an election held for that purpose.

"(d) The word 'beer' as hereinafter used in the Act and for the purpose of the Act shall mean beer containing one-half of one percent ($\frac{1}{2}\%$) or more of alcohol by volume and not more than three and two-tenths per centum (3.2%) of alcohol by weight."

Liquor Violations.

The reports sent to us by the district clerks from 225 counties in Texas show that there has been 3,016 indictments for violating the liquor laws; that only 1,093 cases have been tried; of these 380 were sentenced to the penitentiary; 609 were given suspended sentences; 104 found not guilty; 862 dismissed without trial, and 1,061 cases still pending on dockets Oct. 1, 1934. Our information also shows that

there are 62 counties in Texas where there has not been anyone indicted for violating the liquor laws, 89 counties in the State where no one has been prosecuted for violating the liquor laws, and that there are 135 counties in the State that during the period investigated by this committee not a single person was sentenced to the penitentiary for violation of the liquor law. Our report also shows that in 66 counties out of these 135 counties where there has not been a penitentiary sentence, there have been issued by the Federal Government 1742 licenses to sell hard liquor.

During the period which our investigation covers there was about one out of nine who were indicted for violating the liquor laws that received penitentiary sentences, while those who were indicted for driving motor vehicles under the influence of intoxicating liquors, about 50% were convicted and those who were indicted for burglary, three out of five were given penitentiary sentences.

From September, 1925, to May 31, 1931, there was an average of 371 liquor indictments returned per month in Texas. From June 1, 1933, to September 30, 1934, there was an average of 188 indictments returned per month—a decrease of 50% and it is undisputed that there is more whiskey sold illegally in Texas now than in 1931. This shows conclusively that the liquor laws are unpopular with the public and that the officers and people refuse to enforce them.

About September, 1934, the Federal Government began to collect from the dealers in hard liquor in this State what is known as the one thousand dollar excise tax, and saying, in effect, to the dealers who paid the tax, that as far as the Federal Government is concerned, they can sell hard liquor in Texas if they will pay this Federal tax. All of this tax does not have to be paid at one time, but it can be paid in installments.

Since the repeal of the Eighteenth Amendment, the Federal Government has shown no interest in enforcing or in assisting the State officers to enforce the prohibition laws of Texas, except to collect this one thousand dollar excise tax, which is

only a license by the Federal Government for an individual who pays this tax to violate the prohibition laws in Texas. Many dealers in Texas have paid this \$1,000.00 license fee to avoid being involved with the Federal authorities, realizing that they can sell their wares without any interference so long as they are not violating the Federal Law.

Our information shows that in a great number of places in Texas where liquor is sold that the officers have an interest in the liquor business and in some cases openly operate the saloons and that there is in connection with the saloons all kinds of gambling devices and girls as young as 16 years of age dispense hard liquor; that in many places the saloons are operating 24 hours a day and every day in the week; that they are visited by women and minors and many of them are frequented by lewd women.

Drug Store Liquor.

Since repeal of the Eighteenth Amendment, many new drug stores have been established in Texas and many old drug stores have been converted into vertiable saloons. Despite State prohibition laws, a great number of Texans are getting their liquor through drug stores without even the formality of a physician's prescription.

Attempting a cross-section of the drug store traffic in liquor, the committee analyzed the sales of 37 retail druggists, selected at random, in 18 cities and towns, representative of every section of Texas. These were the outstanding facts showing in the cross-section from a report made by the State Auditor from inspection of stores and records on file in the Comptroller's office.

1. Since last April 1, these 37 stores reported sales of 690,356 pints of liquor without a physician's prescription. This was at the rate of 18,658 pints per store, or 104 pints per day, per store.

2. From this turnover, the State received, as revenue, the sum of \$37.00, representing each druggist's payment of \$1.00 for a permit to sell prescription whiskey.

3. One retail druggist apparently sold whiskey at the rate of four pints per minute. He reported sale

of 373,344 pints in 90 days. None was prescribed.

4. Not a single druggist examined had enough prescriptions issued to cover all sales. Some had issued more prescriptions than reported sales but a further audit of sales showed these misleading. Most of them made no pretense of selling prescription liquor, reporting not a single sale by prescription.

It should be noted, that liquor may legally be sold in Texas only by a physicians prescription, or for sacramental purposes.

A further investigation of the druggist whose sales averaged four pints per minute, allowing him 16 working hours to the day, showed that he was selling to any and all persons wishing to engage in the liquor business. However, if this store's sales were subtracted from the total, it would leave the other druggist examined doing the considerable business of selling 46 pints of liquor a day, in addition to whatever amount may have been legally sold under doctors' orders.

Under the Texas law, whiskey may be shipped into the State only under a wholesale drug company's permit. The wholesaler in turn sells only to retailers who hold state permits. In this connection the committee's survey uncovered these other illegal practices: (a) Some retail dealers are allowing wholesalers to use their names and permits to cover illegal sales; (b) Some retailers actually are wholesalers, selling to whoever wants to buy; (c) Some retailers act as agents, receiving liquor for persons who do not hold permits.

A list of the accountable sales of each of the stores included in the survey follows. Names of the stores have been deleted. They are on file in the committee's office. Moreover, we do not pretend to assert that this compilation covers all the sales of the stores listed. In fact, most cases do not and cannot include sale of bootleg liquor. The number of pints sold without prescriptions was determined by taking the total purchases of the store, as reflected in common carrier records, and checking these against liquor sold under prescription. Common carrier records were inadequate, and it is believed much liquor is transported from Louisiana and New Mexico of which there is no carriers' record.

The list by cities, accounting only for liquor purchased or received from a reporting agency and not including liquor from bootleg or unreported sources:

Abilene: One druggist examined. In six months sold 1,693 pints with prescription, 507 pints without prescription.

Amarillo: Two stores examined. "A" sold 847 legal (with prescription) pints and 59 other pints in 5 months. "B" sold 1,207 legal pints and 468 other pints in six months.

Austin: Four stores examined. Their reported sales, all without prescription, were: 42,828 pints in six months; 4,528 pints in four months; 40,464 pints in six months; 20,824 pints in four months.

Dallas: Three stores were examined, each covering six months; the first sold 26,597 pints, none of which was prescribed. The second reported 1,226 pints of legal whiskey and 390 pints of unprescribed whiskey; the third 498 pints of prescribed whiskey and 5,377 pints of other whiskey.

Fort Worth: Two stores examined, for six months. They totalled 310 pints of prescribed whiskey and 696 pints sold without prescription.

Houston: Four stores were examined. The four sold a total of 412 pints of legal whiskey. Without prescription, the amounts were: 10,553 pints in four months; 13,946 pints in six months; 43,040 pints in five months; and 1,093 pints in six months.

Kingsville: One store, in six months, 2,480 pints of legal whiskey and 2,024 pints without prescription.

Lampasas: One store, 242 pints with prescription, 2 without.

Marlin: One store, 443 pints with prescription, 95 without.

Mineral Wells: 291 pints with prescription and 141 pints without, in one store examined.

Odessa: One store sold 325 legal pints and 8,567 pints without prescription.

Overton: One store examined, for two months' period, 155 pints legal, 59 pints unprescribed.

San Angelo: Two stores, in six months, sold 1,790 pints legally; 614 pints without prescription.

San Antonio: Five stores examined. The five sold 192 pints of legal whiskey. Their sales of un-

prescribed whiskey were: 18,277 pints in approximately five months; 402 pints in six months, 6,190 pints in six months, 373,344 pints in ninety days; and 6,384 pints in ninety days.

Texarkana: One store, in six months, reported 486 pints prescription liquor, 210 pints unprescribed.

Tyler: One store, in five months, sold 1864 pints prescribed and 32 unprescribed.

Waco: Four stores examined. They sold 751 pints on prescription; unprescribed whiskey for each store: 21 pints in six months; 54,488 pints in four months; 10 pints in six months; 14,280 pints in six months.

Wichita Falls: Sales of two stores analyzed; they sold 2,995 pints of prescribed whiskey and 1,013 pints unprescribed whiskey in six months.

The drug stores are only one of the agencies through which whiskey is being sold illegally. In another part of this report, we have discussed more fully the liquor traffic.

We quote from the Comptroller as follows:

"In compliance with your request for a compiled report on the total number of gallons of medicinal liquors shown to have been delivered within the State by common carriers as shown by their reports to this department, you are advised that such compilation shows the following totals:

Whiskey	288,893 gallons
Alcohol	10,066 gallons
Gin	21,444 gallons
Brandys, wines, etc.	3,446 gallons

Note that these are totals for the second and third quarters of the year 1934, beginning April 1st and ending September 30th."

Yours very truly,

(Signed) GEO. H. SHEPPARD,
Comptroller of Public Accounts.
VNB/

The above represents the number of gallons of legal drug store liquor sold in Texas for six months. At this rate there would be 647,698 gallons of legal drug store liquor sold per year, not taking into consideration the many thousands of gallons of illegal liquor sold.

Authorities and Jurisdiction of
Courts.

Article V, Section 12, of the State

Constitution, provides: "All judges of courts of this State, by virtue of their office, be conservators of the peace throughout the State. The style of all writs and process shall be 'The State of Texas.' All prosecutions shall be carried on in the name and by authority of the State of Texas, and shall conclude: 'Against the peace and dignity of the State.'"

Constitution, Article V, Section 13: "Grand and petit juries in the district courts shall be composed of twelve men, but nine members of a grand jury shall be a quorum to transact business and present bills. In trials of civil cases, and in trial of criminal cases below the grade of felony in the district courts, nine members of the jury, concurring, may render a verdict, but when the verdict shall be rendered by less than the whole number, it shall be signed by every member of the jury concurring in it. When, pending the trial of any case, one or more jurors not exceeding three, may die, or be disabled from sitting, the remainder of the jury shall have the power to render the verdict; provided, that the Legislature may change or modify the rule authorizing less than the whole number of the jury to render a verdict."

Article V, Section 5, provides: "The Court of Criminal Appeals shall have appellate jurisdiction co-extensive with the limits of the State in all criminal cases of whatever grade, with such exceptions and under such regulations as may be prescribed by law."

Article V, Section 8. "The district court shall have original jurisdiction in all criminal cases of the grade of felony."

Constitution, Article V, Section 16: "The County Court shall have original jurisdiction of all misdemeanors of which exclusive original jurisdiction is not given to the justices court as the same is now or may hereafter be prescribed by law, and when the fine to be imposed shall exceed \$200 . . . They shall have appellate jurisdiction in cases civil and criminal of which justices courts have original jurisdiction . . ."

Article V, Section 19, reads: "Justices of the peace shall have jurisdiction in criminal matters of all

cases where the penalty or fine to be imposed by law may not be more than for two hundred dollars . . ."

Article 338, Code of Criminal Procedure, provides for the selection of sixteen men from the citizens of the different portions of the county to be summoned as grand jurors for the next term of court.

Article 357, Code of Criminal Procedure: "When twelve qualified jurors are found to be present, the court shall proceed to impanel them as a grand jury. . ."

Article 381, Code of Criminal Procedure: "The grand jury shall inquire into all offenses liable to indictment of which any member may have knowledge, or of which they shall be informed by the attorney representing the State, or any other credible person."

Article 391, Code of Criminal Procedure, provides: "After all the testimony which is accessible to the grand jury shall have been given in respect to any criminal accusation, the vote shall be taken as to the presentment of an indictment, and, if nine members concur in finding the bill, the foreman shall make a memorandum of the same with such data as will enable the attorney who represents the state to write the indictment . . ."

Articles 392-393 and 394, Code of Criminal Procedure, make provisions for the preparation, presentment into court and the record to be made of indictments returned.

Article 396, Code of Criminal Procedure, gives the requisites of an indictment, and states that all indictments shall commence with these words: "In the name and by the authority of the State of Texas," and must conclude with this phrase: "Against the peace and dignity of the State." This same language is required in all complaints and informations filed in misdemeanor cases.

The Courts and Grand Juries.

Texas is today supporting out of the State Treasury the Supreme Court and the Court of Criminal Appeals, each of which has separate Commissions of Appeals, making a total of fourteen judges in the two courts. There are also eleven Courts of Civil Appeals and one hundred twenty-seven district courts. Within

the past twenty years the three Commissions assisting the Supreme Court and the Court of Criminal Appeals, two new Courts of Civil Appeals, and about forty-five district courts have been created.

Appropriations for the Judiciary out of the State Treasury for the biennium 1934-1935 totalled \$3,914,175, an increase of 86% over the amount appropriated for the biennium 1916-1917. The appropriation for 1934-1935, however, was considerably less than the appropriation for the years 1930-1931, when the total was \$3,684,059. Fee investigations and the large cut in salaries was responsible for the decrease. Appropriations for the inferior courts in 1916-17 totalled \$1,664,400, and in 1934-1935, \$3,148,075. Fees to sheriffs, clerks, and attorneys in felony cases totalled \$720,000 in 1916-1917, and \$1,000,000 in 1934-1935. Before the fee investigations in 1930-1931, this item totalled \$1,822,542.

For each county in Texas there is established at least one county court and various numbers of justice courts. There have been created from time to time county courts in the larger counties for the purpose of trying and disposing of criminal cases. The cost of maintaining all of these courts falls upon the treasury of the county, and information is not available to this committee showing what this amount would be. It obviously, however, would be many fold greater than the cost of the state-maintained judiciary.

It is apparent from the large increase in the appropriations for the courts and the local support supplied by the counties, that either we have too many courts or that crime and litigation have increased tremendously within the last decade. Unquestionably, in the view of the committee, the passage of a multiplicity of laws and the highly technical codes and rules of procedure have not only resulted in great expense in that dismissals, continuances, and reversals have caused duplication of efforts, but likewise have resulted in great miscarriage of justice.

We have quoted quite at length the Constitution and statutory laws pertaining to the jurisdiction of the various courts, and the mechanics

which provide for the organization, presentment, and trial of criminal cases in Texas. We do so for the reason that what here follows may be more clearly understood by the laity, as well as the lawyer. It will be observed that the Constitution and Criminal Statutes assuredly are made to govern the people of the Commonwealth.

Since the Constitution was written and many of our laws passed changes have taken place in the social and political concepts of the people, and in their attitudes toward Government, which are of far-reaching consequences. There has developed the theory of the natural and inherent rights of the people to govern themselves locally, or in a particular community or county, without regard to the State social organization, or their obligation as individual citizens and members of such organization.

Governor Neff in his message to the Legislature in 1923, had this to say: "Argument has been made by some people that the officers and the people of the respective counties are the judges as to how the laws should be enforced in their respective counties; that the enforcement of the laws in these counties is not a matter in which the State should interfere; and that for the State to do so is a violation of the fundamental principles of local self-government. There is no such thing as local self-government in regard to violations of the law. Our government was not instituted to favor criminals, but to protect the law-abiding. Every crime that is committed is a crime against the State. The State enacts laws, not the counties. The State is the sovereign government. Counties are but political subdivisions of the State, made by the State for the convenience of the State in the administration of the government. Counties elect their officers, but elect them to enforce State laws. Every indictment charging an offense against the law begins in the name of the State and closes against the peace and dignity of the State. Every person in the penitentiary was sent there in the name of the State, not in the name of county. The State pays the expenses of the sheriff who arrests him, of the judge who tries him, and of the penitentiary authorities who keep him. Therefore, the flag in

behalf of law and order is raised in the name of the State. When county officers protest against the State sending her Rangers and her State officials to a county to enforce the law, the protest is always made for the benefit of the criminals, and not the law-abiding people. If a county were permitted to set up its own standard for law enforcement, then the criminals could take charge of some small county in Texas and have a world of unrestrained lawlessness all their own. No parliament of gamblers, bootleggers, thieves, thugs, murderers and trespassers of the law generally should be permitted to establish courts, elect officers and take charge of any county in this State. The law should be enforced and respected on every square foot of Texas soil."

Continuing, Governor Neff said: "In the administration of the law, I am for the courthouse, its judgments and decrees. It is the one tribunal whose sole function is to make life sacred and property secure. It is the outgrowth of the centuries, the ripened product of civilization. When people ignore the courthouse and defy the law, they are blasting with the dynamite of destruction at the very foundation of their government. Without the courthouse the weak would be made to surrender to the strong. I am for the courthouse and against the mob. If civilization is worth preserving on the battlefield when war shakes her bristling bayonets, it is worth maintaining in the courthouse, where justice, when properly supported, holds forth her delicately-balanced scales. In this deluge of lawlessness and disrespect for governmental authority which has submerged the State, the courthouse will prove to be the Mount Ararat upon which the ark of the law must finally rest, to send forth the dove of peace and civilization."

The Committee has found that the courts in a large part of the State have failed to function in the enforcement of the laws. The law is not automatic in its enforcement, but this accomplishment must be achieved through public peace officers, prosecuting attorneys, judges, and the citizens selected for jury service. There is no channel through

which law can be enforced except by and through this vested authority.

It has been suggested by some judges and other men of wide experience that it would be helpful in the enforcement of the law to amend the Constitution to provide that a majority of a grand jury quorum could present a bill of indictment, and also to amend the Constitution and statutes to authorize and permit verdicts by nine members of a jury sitting in all felony cases less than capital. This is a radical departure from the system that has been the policy of the State since the Constitution was written. It will be observed that under the Constitution, Article V, Section 13, *supra*, allowance is made for the Legislature to change or modify this rule in civil cases and in criminal cases below the grade of a felony, but it is believed that such Article especially inhibits the Legislature from passing statutory law that a majority of a grand jury quorum, or any number less than nine, could return an indictment. Our recommendations concerning this matter may be found in the concluding chapter of this report.

The committee believes it appropriate to here briefly quote from much of the evidence in the files touching upon the subject here discussed. From a district judge: "I now charge you that there has arisen in this county a terrible condition. The gambling fraternity has this county by the throat. In order to rid the community of this element and this vice, you twelve men will be put to the test. Heretofore a list of a former grand jury was found in the pocket of the king of the race horse gamblers. There may not have been any significance in this. Nevertheless, that grand jury did not indict that man whom all the county knows is engaged daily in a penitentiary offense . . . I further charge you that this gambling business is so entrenched that the leading gambler is supposed to have great influence in electing men to office." Continuing the judge says: "I charge you that it is a penitentiary offense, under the laws of the State of Texas, to sell whiskey for drinking purposes . . . it is not your concern as to whether a trial jury will or will not convict a man for selling whiskey.

The fallacy of this conclusion will be established in this court when you return the indictment and the cases are tried." This judge some months ago set several liquor cases down for trial in this court and drew a panel of jurors to try the cases. The committee was informed that out of the panel, only thirteen could qualify because the remaining panel expressed their predilection against convicting any defendant for such violation.

From a witness in another county: "You are aware that a crime wave exceeding anything in all history is now raging—not next week or next January, but now. When citizens of Texas can't go to bed with a reasonable security that they will not be six-shootered or their stuff carried off during the night, it is a serious thing to cope with and we are right in the middle of it in some parts of Texas." He concludes by saying: "Give us relief at any cost and kind from drunken gangs, bullies and hijackers."

In still another county this is the practice: During one month more than two hundred train-riders were arrested and placed in jail. Complaints were filed against them for vagrancy. Being without funds, some pleaded guilty and served their fines in jail, others were held for trial. The sheriff received forty cents per day for each prisoner; the justice of peace received \$2.50 in each case tried whether convicted or acquitted. Under the fee system the county must pay these fees, and testimony before us shows that one justice of the peace billed his county for more than \$600.00 fees for one month; these fees resulting mostly from the trials of train-riders charged with vagrancy.

From another section a witness testified: "Various cases which have been filed in the justice court have been dismissed for reasons best known to the court as found 'not guilty' rather than 'dismissed' thereby entitling (according to the docket) the justice and county attorney to fees which are not payable in cases of dismissal.

Another witness testified: "Our Rangers are selling liquor personally and openly."

And this from another witness: "This county is officially dry but is

very, very wet. The local constable does not pay any attention to slot machines and, apparently, little to whiskey. The sheriff makes a few arrests for slot machines or whiskey, but when such arrests are made and indicted, the juries will not convict. The county attorney is willing to do anything possible but is very much discouraged with the attitude that a jury takes on the above questions. The district attorney states that it is very nearly useless to present a liquor case to a jury in this county with any hope for a conviction. When any such cases are made in this county, a certain local lawyer is nearly always the defendants' attorney and is always sure to see that no jurymen who believe in enforcing the laws as to alcoholic beverages and gambling is on the jury."

In another county our files reflect this testimony: "The last grand jury met and indicted a number of parties for selling beer, whiskey and operating slot machines. Two defendants were tried in the district court and acquitted. One is an out and out outlaw. Each time he faces a jail door, his lawyer gets him out on bond or habeas corpus. This defendant boasted that within the past twenty years he had paid off all of the sheriffs in the county with the exception of two: that is, the present one and another one. The situation in this county, which is officially dry, is the officers arrest but the juries will not convict."

A foreman of a recent grand jury in another county testified: "In the recent grand jury, of which I was foreman, we had some of the same kind of cases, and on discussion and from the attitude of the sheriff and district attorney on some of the cases, we plainly saw they didn't want them billed for personal reasons. When the vote was taken the jury body came to the conclusion that if the sheriff and district attorney didn't want their friends billed, we didn't want our friends billed, so a No Bill was returned in all cases."

Quite a vast amount of similar testimony has been taken by the committee. We have had testimony from professional gamblers, bootleggers and underworld characters, who have told us of paying officers for protection in order that they might continue their unlawful activities, and

much of this testimony has been corroborated by other facts. We have found in some counties in Texas where the officers apparently have all the citizens intimidated, have assumed a supreme rule and law unto themselves, and where wide-open law violations of every conceivable character are being allowed, encouraged, and participated in by these officials. Any citizen who desired to run for a county office would first have to get the consent of the political boss. It has been reported that men have been arrested and placed in jail for opposing the political manipulations of the organization, and that it would not be possible to secure an indictment against these officials in that county.

That there exists a necessity for a speedy removal from office of such an official by state authority cannot be denied. These officers in certain localities are openly and arrogantly, wilfully and corruptly, failing and refusing to uphold and enforce the law. Instead, they stand in the way of the law.

Breakdown of Criminal Law Enforcement.

"Breakdown in the enforcement of the criminal law is very frequently advanced as one of the principal causes of crime in Texas. The Chicago Crime Commission in one bulletin declares: 'Crime flourishes because criminals escape punishment.' And in another, the maladministration of justice 'is probably the chief factor in the entire crime situation.'" Mark O. Prentiss is quoted as saying: "I believe I am in a position to express what is in the mind of the average good citizen today. It is apparent and conceded that the administration of criminal justice has absolutely collapsed, and the reason we have the appalling condition now confronting us is because criminals go unpunished." The late Chief Justice and former President Taft said: "It is not too much to say that the administration of the criminal law in this country is a disgrace to our civilization, and that the prevalence of crime and fraud . . . is due largely to the failure of the law and its administration to bring criminals to justice."

A study of the following figures discloses the disquieting fact of the

enormous difference between the number of indictments returned, prosecution had, and the number resulting in the conviction of the accused. In 226 counties in Texas, covering a period from June 1, 1933, to October 1, 1934, there were 3,016 indictments returned for the violation of the Dean Law. These cases have resulted in the following dispositions: 380 received penitentiary sentences, 609 suspended sentences, 104 not guilty, 862 dismissed, and 1,061 yet pending. For the offense of driving an automobile while under the influence of intoxicating liquor, during the same period, there were 786 indictments returned, with the following results: 382 convicted, 132 dismissed, 272 cases pending. For the offense of burglary there were 3,785 indictments returned, 2,157 resulted in convictions, 77 not guilty, 614 dismissed and 966 pending. In robbery cases there were 829 indictments, 373 convictions, 20 not guilty, 121 dismissed, 315 pending. There were 716 indictments returned in these counties for murder, 306 were convicted, 58 not guilty, 64 dismissed, and 288 pending. The above statistics do not include reports from some of the larger cities in Texas.

Of course many crimes are committed that never become known, and where known, many escape indictment. It is evident from these statistics that only a small proportion of criminals are eventually punished for the crimes they commit. It is true that the crime wave is nationwide, but facts elicited by this Committee and the observation and report of the operation of criminal justice in Federal courts, tend to show that, at least in Texas, the processes in connection with criminal justice are so inefficiently performed and administered that a striking number of criminals remain unpunished.

The laws are honey-combed with technical rules of procedure and the courts are thus bound and gagged in the administration of justice. The courts and judges are not to blame for this condition, but nevertheless the people have become impatient with these laws and are losing faith in its justice. Those citizens serving on juries, and observing trials of cases in the courts, have exper-

lenced to disgust the manifold technicalities, ineptitude of the court, jury and lawyers—all invoked to the exploitation of the criminal to defeat justice. Rules of procedure and practice have made the trials of criminal cases merely a game of wits in which the facts have become of less importance than the technical rules, the manner preferred to the objective of a trial, and the procedure to the purpose. Much has been written and said on this subject, and considerable effort has been made to rectify much of the fault.

President Roosevelt recently recommended, and the Congress has passed, many bills to strengthen the arms of the law in Federal Courts. The United States Supreme Court has only recently formulated drastic rules of procedure for Federal Courts calculated to stop the long delays, reversals, and acquittals through technicalities. All of the leading thinkers in discussing the subject point out of the precious time of the court spent in selecting juries, and frittered away by lawyers wrangling over trivial details; of the gross injustice in one or two men thwarting verdicts; of the ease in securing dismissals, mistrials, appeals, and reversals; of many criminals being turned loose upon society through misspelled words and grammatical errors in bills of indictment; and that three-fourths of all time spent in litigation is lost through the complexity of court procedure. Texas ought to follow the lead of the Federal Government and erase from the books every rule that is not subservient to the economical and speedy administration of justice.

In connection with this, the Committee recommends the passage of legislation, constitutional or statutory, or both, as follows:

1. Simplifying the requirements of an indictment and complaint, charging the defendant in simple, unambiguous language, with the commission at a certain time and place, of specified, indictable offense.

2. Providing that, after the defendant has been sufficiently advised of the offense with which he stands charged in the first instance, amended complaints or indictments as to formality should be authorized.

3. Repealing the severance stat-

ute, and permitting the joint trial, at the discretion of the court, of all those indicted for the same offense.

4. Authorizing and requiring a liberal construction of the procedure code, making most of the rules directory rather than mandatory in the trial court.

5. Authorizing a co-defendant to testify either for the State or defendant.

6. Providing that reversals on appeal shall not be had unless a material injury has been done a defendant, his rights being prejudiced, and that a different verdict would likely have been rendered had not the error complained of occurred.

7. Disallowing a reversal because of the consideration of, and the comment upon, the defendant's failure to testify in his own behalf.

8. Authorizing the cross-examination of the wife of the accused upon any material matter, not in the scope of a confidential communication, when she has been offered as a witness by the defense.

9. Providing that in all cases where the defense relied upon is that of alibi, such facts shall be made known to the prosecuting attorney, and a list of the witnesses to so testify furnished the prosecuting attorney at least two days prior to the trial.

10. Providing that only one venire list may be drawn and summoned for service in one or more capital cases set for trial on the same date.

11. Authorizing a majority of a grand jury quorum present to return and present a bill of indictment.

12. Authorizing nine members of a jury to return a verdict in felony cases less than capital.

13. Authorizing the trial judge to give written explanatory instructions of the law when requested by the jury, in the presence of the accused and counsel.

14. Amending the law pertaining to charges of the court.

15. Reducing the number of peremptory challenges in district court in felony cases.

16. Providing that no bail, pending appeal, shall be allowed in any case where defendant has been finally convicted of a felony in a

previous trial, when the verdict is in excess of five years.

17. Providing that where a jury finds a defendant guilty for the offense charged and is unable to reach a verdict as to the punishment, they may return their verdict of guilty and the trial judge shall prescribe the punishment.

18. Providing that in suspended sentence cases it shall be mandatory upon the person convicted to make periodical reports to the court of his conduct and activity, and on his failure to do so, the court may revoke the suspension of sentence.

19. Providing that all persons, firms or corporations who are required by law to pay taxes directly to the State on cigarettes, oil, gas, light, power and any and all special taxes should keep accurate records of business, such records to be open at all times to the Comptroller, Treasurer and all other law-enforcing agencies of this State.

20. Providing that operation of bookies be made a felony.

21. Providing that venue for any quo warranto proceedings to remove any official from office after indictment shall be in Travis County, Texas.

22. Providing that all persons signing bail bond as surety be required to file with the county clerk a sworn inventory of all property owned by them and all encumbrances against said property. Also, a list and amount of all other bail bonds on which they are sureties. In the event of the failure or refusal of the sheriff, constable or other official to first require the above filing before the bond, then the said official accepting the bail bond, and his bondsmen, shall be held strictly accountable therefor.

23. Providing that bondsmen of district and county attorneys be held responsible for failure of said district or county attorney to institute suit immediately when bail bonds are forfeited, and to diligently prosecute same.

24. That all officers and employees of the State who handle funds or negotiable instruments be placed under bond to the State.

Special Officers.

The Texas Rangers are famed in

song and story of the Southwest. History and legend have given them a place unsurpassed by any modern peace officer in any state or nation, rivalled only by the Royal Northwest Mounted Police.

Yet today, the name "Texas Ranger" is losing its once fine reputation, due not to any fault of legitimate peace officers, but to the fact that the identity of the true Ranger is being swamped by a horde of "special" Rangers.

The number of real Rangers is small. Traditionally, one ranger is enough to quell a riot. The regular ranger rolls contain only 36 names. Yet on the roll of "special" rangers are the names of 1620 persons, most of whom must fall into the category of official gun-toters.

For what purpose all these commissions were issued is not apparent from the record. To say they were honorary and complementary would eliminate such special rangers as law students, professional wrestlers and fish dealers, to select but three of the many occupations listed for the specials. To say they are issued merely in order to allow some one to carry a gun would eliminate such personages as Kate Smith, the radio singer, who doesn't need a gun.

Illustrative of the wide range of occupations represented by special rangers, these were selected at random from the list of 1620: undertaker, stereotyper, rock mason, painter, chamber of commerce manager, oil mill operator, electrical advertiser, dentist, barber, paper hanger, ice manufacturer, head of Better Business Bureau, oil royalties and leases, mayor, wrestling referee, theater owner, druggist, cook, embalmer, hardware clerk, locomotive engineer, preacher, news reporter, record artist, Spanish interpreter, retail liquor dealer, professional wrestler, x-ray technician, curer of peas, medical student, Kate Smith, bodyguard and secretary to a doctor.

Just what use these specials make of their commissions was not reflected by records submitted by the adjutant general; but our own investigators found special rangers at the roadside speed traps, as bouncers in night clubs, as officers in gambling houses, as traffic officers and guards at horse and dog race tracks.

A like situation of "special" officers outnumbering the regulars exists in many counties through the commissions issued to special police and sheriff's deputies. The committee did not take up this subject until late in its deliberations, hence has data on a relatively few counties.

One county reported 503 special deputies to the sheriff, and one city 147 special police. Another city reported 214 special police.

Duties listed for some of the county deputies were: dance hall guard, ranch foreman, hotel baggageman, cement worker, boiler inspector, banker, ice driver, funeral director, "self protection," "taxi dance hall officer," house officer, oil promoter and veterinarian.

In one city's special police list appeared these duties of special officers: watchmen for churches, dance hall matron and numerous special officers at dance halls, "community watching," "general watching," Cuban shows, watching stores on holidays.

It is this committee's belief that the principal result of issuing special commissions is to create a class of gun-toters who may become a menace to law-abiding citizens. The public press has reported in recent months cases in which the special officer apparently abused the privilege of carrying a gun and examples are cited for emphasis to show the character of service for which special officers are employed:

Officer is working at a dog race track. His badge of authority is that of a special ranger. His duties are those of a house detective. He takes his orders from the owner, assists in parking automobiles, helps carry the money from parimutuels to the bank; otherwise is a general handyman.

Officer was used when rival slot machine concerns quarreled over the privilege of operating exclusively in a Texas county. Accompanied by the manager of one of the slot machine outfits, he helped to arrest the manager of the other. Reputedly his job was to destroy all slot machines except those of the one outfit which claimed a monopoly in the county.

Officer reputedly was the liaison man for a "pay-off" between a certain named higher-up and the gambling element in East Texas, according to testimony before this committee.

Ranger is well known to be the

owner of a leading liquor and gambling resort in one section of the State. There is no pretense at concealing the facts.

Two men with ranger commissions were reported on duty at a night club. Our investigators found numerous instances of this practice. Virtually every night club and gambling house of any size has its special ranger or special deputy sheriff guards.

Another instance was given where a ranger worked with a special deputy in a speed trap. One of these men testified he "earned" \$500.00 a month out of fees for highway violations.

Taking the above examples as indicative of the evils in the practice of indiscriminate issuance of special ranger commissions, it is apparent that this practice should be stopped, except perhaps in unusual cases, and then only on the recommendation of the sheriff, county attorney, district attorney, county judge and district judge certifying that a necessity exists therefor.

The committee fully appreciates the value of the name of "Texas Ranger," and all that it has stood for, being second to none in the world as a law-enforcing agency. They derived their name from riding the ranges of Texas, and had a noble part in moulding its early history.

As expressive of the ideals of the old-time ranger, we have been deeply impressed with the prayer written by the Rev. Pierre Bernard Hill of San Antonio, former chaplain of the rangers:

"Oh God, whose end is justice,
Whose strength is all our stay,
Be near and bless my mission,
As I go forth today.
Let wisdom guide my actions,
Let courage fill my heart.
And help me, Lord, in every hour,
To do a Ranger's part.
Protect when danger threatens,
Sustain when trials are rough.

"Help me to keep my standard high
And smile at each rebuff.
When night comes down upon me,
I pray Thee, Lord, be nigh,
Whether on lonely scout, or camped
Under the Texas sky.
Keep me, O God, in life,
And when my days shall end,
Forgive my sins and take me in,
For Jesus' sake. Amen."

It is beyond our imagination to picture a "special" ranger uttering that prayer to his Maker after a night spent policing a gambling house or a night club.

Lawlessness in Certain Sections.

History is replete with many startling facts concerning the early settlement and domination of certain sections of Texas by various Spanish, Mexican and American military and political leaders, or padrones, and coming down through the ages, we find that in some degree the practices and policies of such leaders are still in vogue. It will be recalled that over a century ago some citizens of the North came into possession of a large portion of Texas, and today there stand large estates as a monument to these early settlers. The result of this accumulation of wealth was early manifest in an assumed political power and dictatorship.

Within the last two months this committee has listened to the testimony of one of those who thought the vote was a little heavy in certain sections, and when asked how many voters in a certain county, the witness replied that there were about 800, but at the last election the returns showed more than 3,000, although he had the names and addresses of every voter who went into the voting booth at the largest voting places, having secured the same by placing men as close to the polls as the county rulers would allow. In the county site, according to his figures, 495 people went into the voting booth, and more than 800 votes were counted. In another town 450 went into the booth, and over 700 votes were tallied.

It might be pointed out that a vast majority of the voters in this section are Mexicans, and they frequently hold public office. It has been testified that any citizen must first secure the consent and approval of the head of the political organization before his name can be submitted and placed on the ballot for the consideration of the voters. This does not necessarily mean that there cannot be more than one candidate for a single office, but certainly it strongly indicates that consent must be secured from the "powers that be" before he is permitted to run.

Testimony further shows that for many years the privilege to violate the law has been granted for consideration in this section, and until 1933 there seemed to have been practically no outside interference of other sources. In other words, this domination had had no one to "muscle in" on those in authority. Late in the year 1933, a number of rangers were assigned to this territory. Information has been given the committee through sworn testimony that the then ranger captain in that territory not only permitted the operation of gambling houses, saloons, houses of prostitution, and other illegal activities, but that he was directly interested in some of these businesses and received large "pay-offs" in the form of profits and "takes."

This committee has had a number of hearings, both at Austin and in other Texas cities, seeking to elicit information which would enable us to get a true picture of conditions in all sections of Texas. We believe we have done so. We have invited all factions to testify before us. Some did not appear. From this investigation we feel that we can fairly point out a few interesting sidelights on local history in certain sections, as follows:

About twelve years ago, a notorious gambler came into a South Texas county from the West. He was interested in setting up a business in this county where lawlessness abounded, and which was a fertile field for his chosen occupation. Testimony reveals that he soon began the operation of a gambling house, and that he paid \$200.00 a month for the privilege to the then sheriff of the county in which he elected to carry on his business. About six years ago a certain man became county judge. It has been said that he has been a party to many illegal and unlawful practices since assuming office, and that he has benefited greatly through financial contributions from those operating gambling houses and saloons especially. One witness testified, "if you stood in with the powers, you were supposed to have protection from everyone, rangers and all." In 1931 one ranger captain went through this county and closed things up, and they remained closed for about eight months. Then this same gambler

was said to have made a new deal with the above county official for permission to run gambling houses, paying \$600.00 a month for the two houses. It was pointed out that other gambling establishments were being run in the county, and it might be surmised from the testimony that similar arrangements were made by them upon the same "pay-off" basis. It was said that in some instances the county judge and sheriff acted together in these matters.

Since the adoption of the constitutional amendment authorizing the sale of beer in Texas, and the passage of the regulatory bill which placed in the hands of county judges the authority to grant permits for the retail sales of beer, testimony has been produced showing that this county judge has been agent for some of the beer companies, and that only those who deal with his agency are permitted to sell beer in his county. The testimony reflects that several have sought and secured beer agencies in that county, and that no retail dealer has succeeded in selling any beer that did not come through the judge's agency. It also shows that beer in that county is sold for a greater price than is paid for the same product even across the county line.

Upon the arrival of the ranger captain in that territory some months ago it was suggested that operators of the gambling houses and saloons would have to increase the "pay-offs" to take care of these new officials, according to the testimony. It was said that one of the major gambling operators demurred and refused to contribute more, insisting that he was not making enough to increase his contribution, and this seemed to have been the beginning of the break between them. Testimony also shows the business did continue for some time under the protection of local officials. The record further discloses the following testimony: A former ranger captain sought to purchase and did purchase one or more of these gambling houses.

Testimony shows that the former captain had, in addition to his detachment, a number of hangers-on, concerning whose official position there seems to be a considerable doubt. Several of these at times held commissions as officers, and at other

times appear to have been working for or with the captain, simply as individuals. Among them two were particularly prominent. These two gentlemen played an especially prominent part in the displaying of guns and the program of intimidation. According to the testimony, one of these extra men took the money from one or more of the gambling houses when the captain finally took them over, and later brought a bunch of women in his automobile into town and compelled the hotel keeper to put them up in his hotel. Since that time he is supposed to have been connected with a night club and his partner is now said to be serving as deputy sheriff in one of the large cities of Texas and to which county he is a newcomer.

Testimony further shows that during the latter part of the summer of 1934, the ranger captain raided the gambler's place, and gave instructions to one of his hangers-on to open the money drawers and take the cash, which was taken, together with most of the hard liquor. The owner was ordered out of town and immediately left for the county site, where he had another gambling establishment, which was being operated by a woman. The ranger moved faster than the gambler, and before he arrived at the county site the captain's force had raided this place also. They took possession of both places and a night or two later appeared with machine guns at the gambler's dwelling house in the county site, which was not connected with and was not even in the same block with the gambling house. They called on the gambler to come out in the open, but he declined to do so; they then warned him to leave town, which he did. The officer then took possession of his home, as well as his gambling establishments and saloons, and has continued to operate the saloons and gambling establishments and to occupy his dwelling. The testimony shows that, since taking possession, the officer has moved most of the fixtures and personal furniture from both the saloon and residence. The testimony shows that the back bar of the saloon has been removed to a newly opened saloon and night club operated by the ranger captain in another Texas county, and in connection with this operation, which is

near a new oilfield, the committee had occasion to personally examine the books of the lumber company furnishing the material for the construction of this building, which records show that the purchase was made by the ranger captain.

Unquestionably, from these disclosures, no material improvement can be expected in these unlawful conditions until the State steps in with a law-enforcing agency that is both honest and fearless, and the power of removal of any county official, who would sell the powers of his office for a consideration, has been placed in some jurisdiction other than the county of his residence, and then only when such a force is supported with actual, as well as apparent co-operation, both at Austin and Washington.

The committee does not intend, by this report, to leave the impression that such conditions are general throughout the State; they are confined to certain localities and are pointed out primarily for the purpose of emphasizing the necessity for making our law-enforcing machinery more efficient.

Public Safety Commission.

After giving careful consideration to the many reports in our files relative to crime, and a knowledge that the criminal element in Texas has increased rapidly during the past few years, and in order that the majesty of the law may be upheld and life and property be made secure, we believe it would be for the best interest of all the people of Texas to create a State Department of Safety, to be known as the Department of Public Safety.

This department should be composed as follows: Three commissioners, to serve two, four and six years to be appointed by the Governor, by and with the advice and consent of the Senate. These commissioners should be selected because of their peculiar qualifications, such as knowledge of law, enforcement of law, honesty, integrity, executive ability and patriotic love for our State. These three members should form a commission, and should select a director, who should be a citizen of the State of Texas, and who has had a wide experience in public administration and police management, a

knowledge of the laws of the State and a knowledge of the best methods of enforcing the law. The director should be responsible to the commission for the administration of the Department of Public Safety, and make recommendations for continued improvement of the department.

The Department of Public Safety would combine the present ranger force and the present highway motor patrol, with all the personnel equipments and records, and their duties and functions prescribed by law should be continued and merged.

There should be created an additional division, composed of the bureaus of identification and records, communications, intelligence and education. The Department of Public Safety, with the approval of the commission, should select such chiefs, experts, operators, instructors and assistants as may be necessary for the operation of the best departmental headquarters in the world.

Bureau of Identification and Records: The chief of the bureau of identification and records should be selected for his ability and years of experience as an identification expert. It should be the duty of this bureau to keep on file and distribute to proper authorities, identifications of persons and property, lost, strayed or stolen. This bureau should maintain the most modern methods of identification known,—photographs, descriptions, fingerprints, measurements of persons, and complete information concerning lost or stolen. This bureau should collect information concerning the offenses known to have been committed in this State, and the legal steps taken to determine the innocence or guilt of such offender, and should co-operate with the United States Department of Justice under its National system of crime reporting, and should co-operate with the sheriffs and chiefs of police of Texas in establishing efficient local bureaus of identification. These bureaus should make ballistic tests of bullets and firearms, chemical analyses of all materials submitted to it for examination that could be used as evidence.

Bureau of Communications: The director, with the consent of the commission, should appoint a chief of the bureau of communication, and such experts and other assistants as necessary, qualified to supervise and

operate radio broadcasting system, tele-typewriter machines and all other modern methods of communication. This bureau should install and operate a police radio broadcasting system for broadcasting information concerning violators of the law, and to assist activities and functions of law enforcement agencies of the State, counties and municipalities, and should co-operate with county and city authorities in the establishment of police radio stations. This bureau should co-operate with county and city authorities in establishing and operating a State road blockade system.

Bureau of Intelligence: The director, with the consent of the commission, should appoint a director of intelligence, and such assistance as may be deemed necessary, whose qualifications shall be based on the intelligence, patriotism and modern methods of detecting crime and criminals. This bureau should, with the aid of all other divisions and bureaus, sheriffs and chiefs of police, accumulate and analyze information on crime activity in Texas, and should make such information available for the various departments of the commission, county and municipal offices.

Bureau of Education: The director, with the consent of the commission, should appoint a chief of the board of education and such assistants as may be deemed necessary. The chief of the bureau should be qualified to organize the most modern schools for the education of officers and members of the Department of Public Safety, and members of the various sheriffs and police departments throughout the State, to the end that there would be a better understanding of the laws to be enforced, and the best methods of enforcing them. The chief of the bureau of education should establish a comprehensive plan for the education of the citizens of this State in the matters of public safety and crime detention and prevention.

The commission should establish district headquarters and stations at strategic points in the State, with the proper necessary personnel.

Throughout the various portions of Texas we have some of our most patriotic, honest, fearless and efficient men, serving as sheriffs and chiefs of police and it is our opinion

that these officers should be incorporated into and made a part of the Department of Public Safety. That they should be entitled to all rights and privileges to be granted them by the department in the matters of identification of persons and property; they should be coordinated with the bureaus of communication and intelligence and receive, without cost to them, all benefits accruing in and under the bureau of education, and the director of public safety should have authority to call on any sheriff or other police officers in any county or municipality for aid and assistance in eradication of the criminal element.

There should be a happy co-ordination of all the enforcement officers of this State and the telegraph and telephone companies, radio stations and other methods of rapidly transmitting information.

The Department of Public Safety should be permitted to request the services of the University of Texas and all other State supported educational institutions, the Attorney General, Public Health Department, and any and all other departments in carrying out the provisions of the law creating the Department of Public Safety.

The Governor of the State should have authority, upon the occurrence of a public disaster, riot or insurrection, or the formation of organized dangerous resistance to the enforcement of the laws of Texas, to declare a public emergency and assume command and direct the activities of the commission and the departments during the existence of such emergency.

The State of Texas should provide all necessary buildings, offices and quarters for the Department in Austin and in such other places in the State, such as district headquarters, and to provide for the equipment of the department, divisions, bureaus and branches, with all necessary furniture, fixtures, automobiles, motorcycles, horses, firearms, ammunition and all other things necessary for the proper function of this department.

It is our hope that, should this Department of Public Safety bill become a law, all law enforcement units of this State will be co-ordinated in a harmonious effort to enforce all the laws of the State.

Expense of the Senate Committee
Investigating Crime.

Members:	
Expense	\$ 997.32
Employees:	
Salary	4,248.50
Expense	1,129.76
Witnesses:	
Expense	102.66
Miscellaneous:	
Postage and box rent.....	15.00
Total	\$6,493.24

Chairman, Senate Committee
Investigating Crime.

Conclusion.

In closing this report, the committee refers again to the evidence in its files, which is too voluminous to incorporate herein, but the testimony and all of the documentary evidence has been preserved for further reference and study. We have attempted in this report to bring out a few of the glaring conditions which show great disrespect for the laws of Texas. The Legislature can pass laws, but the people must be depended upon for their enforcement. More than a decade ago, one of our leading thinkers made the following pronouncements, which we adopt, and which is as true of conditions today as when written, and furnishes the reader of this report with these last wholesome thoughts:

"Laws Must Be Obeyed.

"If this is to be a government of laws, and not of men, then the laws must be obeyed. The laws are made for man, and not man for laws. The material, the moral, the educational, the spiritual growth of the world, depends on a respect for and an obedience to the law. Lawlessness is endemic, epidemic, infectious and contagious, and opens the door to every evil disease that saps the sovereign strength of the State. All laws are valid and binding. No one is exempt from them. They should be impartially administered. No wealth, no business, no honor, no power, can make one immune from the mandates of the law. No fortune should ever lift a person so high that the long, strong arm of the law could not reach him, and no misfortune should ever

cause one to descend so low that his whispering voice could not be heard in the temple of justice. A people who ignore their laws will reap from the crimes which around them they sow, a harvest of barren regrets. We are guided and governed by law. Whatever the cost, a government must enforce her laws or go on the rocks of anarchy and ruin. If Texas is to be respected, her laws must be obeyed. A government must govern.

"A General Revolt Against Authority.

"There can be seen today on every hand a general revolt against governmental authority. Disrespect for the laws of the land rides upon the wings of every wind. Cold, cruel, calculating crime has been organized and commercialized in Texas. It is now one of the established industries of the State. It is bold and insolent. It lifts its blatant head above the broken bulwarks of the law. It is struggling for social and political recognition. It is indeed a challenging day to the forces of righteousness to know that the forces of evil are making claim to respectability in this State.

"Punishment Must Follow Crime.

"People who will not willingly obey the law should be made to obey it. Punishment must follow crime as night follows the day. The genius of man has never found any better way to prevent crime than to punish criminals. If it were not for the fear of the punishment of the law, neither your life nor your property would be safe for one hour. There is no way to maintain a law except to punish those who trample it beneath their feet. The lance of truth should be hurled through every shield that shelters crime wherever found. The government has two functions to perform in punishing criminals; one is to purify society and the other is to reform criminals. Society owes its first duty to itself.

"Peace Officers and Law Enforcement.

"Under our form of government, public officers are elected by the people and charged with the responsibility of enforcing the law. They are the agencies of the people. The people place their trust in them by mak-

ing them guardians of their property, their liberty and their lives. The government as a government and the people as a people have a right to demand of the officers that they maintain order and uphold the law. There is no channel through which the law can be enforced except by the authority and power vested in the officers. For this high purpose the resources of the State and the powers of the government are placed at their command. Laws can only be given life by official action. He who is charged with the enforcement of the law should himself obey the law. The officer, a creature of the law, who will not himself obey the law, has no right to be an officer. The officer who keeps his eyes shut to the law and connives at its violations should not be permitted to receive the emoluments of office. The officer who is not capable of enforcing the law should resign. The officer who, for any reason, is unwilling to enforce the law, should, by the strong arm of the law, be immediately stripped of every official power and every insignia of office. Peace officers cannot make laws. They cannot modify them. Their duty is to enforce them. As in the Charge of the Light Brigade, 'His not to reason why; his but to do or die.' The people who elect the officers should accept nothing less at their hands. As the citizen has no right to select what laws he will obey, so the officer has no right to select what laws he will enforce. His oath is to enforce all the law. Not to enforce the law is to inject poison into the arteries of the government. When an officer fails or refuses to enforce the law, the collective will of the people, he should be ousted from office. To do this imperatively necessary thing, we sorely need some legislation. Some machinery should be put in motion that will throw out of office every officer in Texas on whom it can be proven that he willfully and corruptly fails and refuses to enforce the laws of the State."

Bills and Resolutions.

S. B. No. 202 Re-referred.

Senator Stone asked unanimous consent to re-refer S. B. No. 202 to

the Committee on Civil Jurisprudence.

Unanimous consent was granted.

S. B. No. 17 Re-referred.

Senator Collie asked unanimous consent to re-refer S. B. No. 17 to the Committee on Criminal Jurisprudence.

Unanimous consent was granted.

Senate Bill No. 247.

By Senator Holbrook:

S. B. No. 247, A bill to be entitled "An Act providing for interest at the rate of 6% per annum on all moneys or royalties payable or deliverable on account of the production of oil, gas or other minerals from lands within this State when said moneys or royalties are not paid within thirty days from the production of said minerals and providing for the calculation of said interest on royalties payable in minerals; providing that said interest shall not be payable if said moneys or royalties are deposited in escrow or trust fund from which the person obligated to pay same derives no benefit; providing that all contracts or parts thereof in conflict with this Act shall be void and of no effect and defining the term "person" as used herein; providing that each provision of this Act is enacted independent of any other provision and that any clause or sentence or part thereof declared unconstitutional shall not effect any other clause, sentence, provision or portion thereof, and declaring an emergency."

Read and referred to the Committee on State Affairs.

Senate Bill No. 248.

By Senator Burns:

S. B. No. 248, A bill to be entitled "An Act creating the Special Ninth District Court of Montgomery County, Waller County, Polk County, and San Jacinto County, Texas, prescribing its jurisdiction, limiting its existence, fixing its terms; providing for the appointment of a judge thereof, fixing his compensation, making an appropriation for the same, prescribing his powers and duties; providing for the transfer of cases from the Ninth Judicial District Court to said Special Ninth District Court

and from said Special Ninth District Court to the Court of the Ninth Judicial District; providing for the appointment of an assistant district attorney to prosecute cases in said court, making an appropriation for his salary; providing for the district clerks of Montgomery County, Waller County, Polk County, and San Jacinto County and their successors in office to be the clerks for the said Special Ninth District Court in their respective counties; providing a seal for said Special Ninth District Court; repealing all laws or parts of laws in conflict herewith; providing that if any section of this Act be held unconstitutional or invalid for any reason, the same shall not impair or affect the remaining sections or provisions, and declaring an emergency."

Read and referred to the Committee on Judicial Districts.

Senate Bill No. 249.

By Senator Burns:

S. B. No. 249, A bill to be entitled "An Act to fix the salaries and compensation in counties with a population of not less than nine thousand, seven hundred ten (9,710) inhabitants nor more than nine thousand, seven hundred twenty-five (9,725) inhabitants according to the last Federal census, and counties with a population with not less than eighteen thousand, five hundred, twenty-eight (18,528) inhabitants, nor more than eighteen thousand, five hundred fifty (18,550) inhabitants according to the last Federal census as to population, and providing for the manner of the payment of the salaries and the fund from which said salaries shall be paid, and repeal all laws in conflict herewith and declaring an emergency."

Read and referred to the Committee on Counties and County Boundaries.

Senate Bill No. 250.

By Senator Redditt:

S. B. No. 250, A bill to be entitled "An Act amending Section No. 1 of Chapter 91, Acts of the First Called Session of the Forty-first Legislature so as to provide that the term of office of the State Auditor and Efficiency Expert shall end on January 31st of each biennium; and declaring an emergency."

Read and referred to the Committee on State Affairs.

Senate Bill No. 251.

By Senator Redditt:

S. B. No. 251, A bill to be entitled "An Act amending Articles 4925 and 4926, Revised Civil Statutes 1925, so as to clarify the same by providing that the total recoveries permitted on the bonds therein provided for shall not exceed the face value of the bonds, and declaring an emergency."

Read and referred to the Committee on Civil Jurisprudence.

Senate Bill No. 252.

By Senator Martin:

S. B. No. 252, A bill to be entitled "An Act defining an independent contractor and declaring the liability of an employer employing one as an independent contractor, and declaring an emergency."

Read and referred to the Committee on State Affairs.

Senate Bill No. 253.

By Senators Martin and Oneal:

S. B. No. 253, A bill to be entitled "An Act amending Article 8306, Revised Civil Statutes of Texas, 1925, by adding a new section thereto, providing for regulation of payment for medical and hospital bills; and declaring an emergency."

Read and referred to the Committee on Labor.

Senator Martin stated that Senator Oneal signed the bill with him but reserved the right to offer amendments when the bill comes up for consideration.

Senate Bill No. 254.

By Senator Martin:

S. B. No. 254, A bill to be entitled "An Act amending Title 42, Chapter 8, of the Revised Civil Statutes 1925, by adding thereto another article to be known as Article No. 2175-A, and requiring of the court to ascertain parties to suit; and declaring an emergency."

Read and referred to the Committee on Civil Jurisprudence.

Senate Bill No. 255.

By Senator Poage:

S. B. No. 255, A bill to be entitled "An Act amending Article 2199 of the Revised Civil Statutes of this

State so as to allow the jury to hear the court reporter read from his notes where there is any disagreement among the jury as to the statement of any witness, and declaring an emergency."

Read and referred to the Committee on Civil Jurisprudence.

S. J. R. No. 20.

Senator Small sent up the following resolution:

By Small. S. J. R. No. 20.

A JOINT RESOLUTION

Proposing an amendment to the Constitution of the State of Texas providing for a Supreme Court of nine members.

Be it resolved by the Legislature of the State of Texas:

Section 1. That Sections 2 and 3 of Article 5 of the Constitution of the State of Texas be amended so as to hereafter read as follows:

Article 5. Section 2. The Supreme Court shall consist of a Chief Justice and eight Associate Justices, any five of whom shall constitute a quorum, and the concurrence of five shall be necessary to a decision of a case; in other matters, until otherwise provided by law, the jurisdiction of the Court shall be exercised under such regulations and orders as the Court by a majority vote may prescribe. No person shall be eligible to the office of Chief Justice or Associate Justice of the Supreme Court unless he be, at the time of his election, a citizen of the United States and of this State and unless he shall have attained the age of thirty years, and shall have been a practicing lawyer or a judge of a court, or such lawyer and judge together at least seven years. Said Chief Justice and Associate Justices shall be elected by the qualified voters of the State at a general election, shall hold their offices six years, or until their successors are elected and qualified, and shall receive such compensation as may now or hereafter be provided by law. In case of a vacancy in the office of Chief Justice of the Supreme Court, the Governor shall fill the vacancy until the next general election for State officers, and at such general election the vacancy for the unexpired term shall be filled by election

by the qualified voters of the State. The Judges of the Supreme Court who may be in office at the time this amendment takes effect shall continue in office until the expiration of their term of office under the present Constitution, and until their successors are elected and qualified.

Until such time as the six additional Associate Justices of the Supreme Court herein provided for may be regularly elected hereunder, the Commission of Appeals shall become a part of the Supreme Court, and its Judges Associate Justices of the Supreme Court. Successors of the members of the Commission of Appeals as Associate Justices shall be elected at the next general election succeeding the expiration of their respective terms of office,—that is, two shall be elected at the general election of State officers in 1936, two in 1938, and two in 1940; and subsequently their succeeding successors shall be regularly elected as Associate Justices of the Court.

When the office of Chief Justice is to be regularly filled by election, the two Associate Justice offices to be filled at the same time shall be known as Place 1 and Place 2; and when the office of Chief Justice is not to be filled, the three Associate Justice offices to be filled shall be known as Place 1, Place 2, and Place 3; and the place for which any candidate for Associate Justice offers shall be so designated on all ballots.

In order to dispose of the accumulated docket at any time, the Supreme Court shall have authority hereunder to designate Judges of the Courts of Civil Appeals and of the District Courts of the State, and members of the bar of the State, as Special Associate Justices of the Supreme Court, to sit with and act with the Court, under such rules as the Court may prescribe, for limited periods of time,—such designations not to materially interfere with the usual and continuing duties of the Judges of the appellate and trial courts so designated.

Sec. 2. Said proposed Constitutional amendment shall be submitted to a vote of the qualified electors of this State at a special election to be held throughout the State on _____, 1935, at which election each voter opposing said proposed amendment shall scratch off of the ballot with a pen or pencil the following words

printed on said ballot: "For the amendment to the State Constitution providing for a Supreme Court of nine members," and each voter favoring said proposed amendment shall scratch off of the ballot in the same manner the following words printed on said ballot: "Against the amendment to the State Constitution providing for a Supreme Court of nine members." If it appears from the returns of said election that a majority of the votes cast are in favor of said amendment, the same shall become a part of the State Constitution.

Sec. 3. The Governor shall issue the necessary proclamation for said election and have the same published and said election held as provided by the Constitution and Laws of this State.

Sec. 4. The sum of Five Thousand Dollars (\$5,000.00), or so much thereof as may be necessary, is hereby appropriated out of the State Treasury to pay for the expenses of said publication and election.

Read and referred to the Committee on Constitutional Amendments.

Senate Bill No. 90.

Pending business was S. B. No. 90.

Senator Woodruff sent up the following amendment:

Amend S. B. No. 90, as amended, by striking out the figures and symbols "3½%" where they appear conjointly in Subsection D of Section 1, Section 3, and/or elsewhere in the bill and by substituting in lieu thereof the following in each instance: "4½."

WOODRUFF.

Read.

Senator Redditt sent up the following amendment to the amendment:

Amend Woodruff Amendment by striking out the words and figures 4½% and substituting the words and figures three (3%) per cent.

BURNS,
REDDITT.

The amendment by Senators Burns and Redditt was adopted by the following vote:

Yeas—21.

Beck.	DeBerry.
Burns.	Hill.
Collie.	Holbrook.
Cotten.	Hopkins.

Hornsby.	Redditt.
Hughston.	Regan.
Moore.	Sanderford.
Neal.	Small.
Oneal.	Stone.
Pace.	Westerfeld.
Poage.	

Nays—5.

Blackert.	Martin.
Davis.	Woodruff.
Duggan.	

Absent.

Fellbaum.	Shivers.
Rawlings.	

Absent—Excused.

Sulak.	Van Zandt.
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Motion to Table Amendment.

Senator Hornsby moved to table the amendment as amended.

The motion prevailed by viva voce vote.

Senator Woodruff sent up the following amendment:

Amend S. B. No. 90 as amended by striking out Subsection C of Section 1, and substituting therefor the following:

"C. They shall be dated May 1, 1935, and the principal of said bonds shall mature as follows:

\$500,000.00 on or before Oct. 15, 1936.
\$500,000.00 on or before Oct. 15, 1937.
\$500,000.00 on or before Oct. 15, 1938.
\$500,000.00 on or before Oct. 15, 1939.
\$500,000.00 on or before Oct. 15, 1940.
\$500,000.00 on or before Oct. 15, 1941.
\$500,000.00 on or before Oct. 15, 1942.

WOODRUFF.

Read and adopted by a viva voce vote.

Point of Order.

Senator Hornsby raised the point of order that the question was the engrossment of the bill.

Sustained.

Senate Resolution No. 37.

Senator Cotten received unanimous consent to suspend the regular order

of business and send up the following courtesy resolution:

Whereas, Hon. W. A. Tarver of Corsicana, Texas, and Washington, D. C., and former Insurance Commissioner of Texas, is within the city; therefore be it

Resolved by the Senate of Texas That Hon. W. A. Tarver be invited to address the Senate and be accorded the privileges of the floor.

COTTEN.

Read and unanimously adopted.

The Chair appointed Senators Cotten, Oneal and Pace to escort the visitor to the platform.

The Lieutenant Governor, Walter F. Woodul, presented Senator Cotten, who in turn presented Hon. W. A. Tarver.

Mr. Tarver addressed the Senate briefly.

Senate Bill No. 90.

Recurring business was consideration of S. B. No. 90.

Senator Collie sent up the following amendment:

Amend S. B. No. 90 by amending the caption to conform to the body of the bill, and by striking out of the caption all matters not incorporated in the committee amendment.

COLLIE.

Read and unanimously adopted by viva voce vote.

The bill was read second time and passed to engrossment by viva voce vote.

On motion of Senator Hornsby, the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 90 was put on its third reading and final passage by the following vote:

Yeas—29.

Beck.	Hornsby.
Blackert.	Hughston.
Burns.	Martin.
Collie.	Moore.
Cotten.	Neal.
Davis.	Oneal.
DeBerry.	Pace.
Duggan.	Poage.
Fellbaum.	Rawlings.
Hill.	Redditt.
Holbrook.	Regan.
Hopkins.	Sanderford.

Shivers.
Small.
Stone.

Westerfeld.
Woodruff.

Absent—Excused.

Sulak.

Van Zandt.

Read third time and finally passed by the following vote:

Yeas—29.

Beck.	Moore.
Blackert.	Neal.
Burns.	Oneal.
Collie.	Pace.
Cotten.	Poage.
Davis.	Rawlings.
DeBerry.	Redditt.
Duggan.	Regan.
Fellbaum.	Sanderford.
Hill.	Shivers.
Holbrook.	Small.
Hopkins.	Stone.
Hornsby.	Westerfeld.
Hughston.	Woodruff.
Martin.	

Absent—Excused.

Sulak.

Van Zandt.

Senate Bill No. 27.

Senator Regan called from the table S. B. No. 27, which had been read the second time and laid on the table subject to call.

By Senator Regan:

S. B. No. 27, A bill to be entitled "An Act making an appropriation of one thousand (\$1,000.00) dollars to be used by the Commissioner of the General Land Office for binding and repairing records and documents of the General Land Office; and declaring an emergency."

On motion of Senator Regan, the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 27 was put on its third reading and final passage by the following vote:

Yeas—29.

Beck.	Hill.
Blackert.	Holbrook.
Burns.	Hopkins.
Collie.	Hornsby.
Cotten.	Hughston.
Davis.	Martin.
DeBerry.	Moore.
Duggan.	Neal.
Fellbaum.	Oneal.

Pace.	Shivers.
Poage.	Small.
Rawlings.	Stone.
Redditt.	Westerfeld.
Regan.	Woodruff.
Sanderford.	

Absent—Excused.

Sulak.	Van Zandt.
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Read third time and finally passed by the following vote:

Yeas—29.

Beck.	Moore.
Blackert.	Neal.
Burns.	Oneal.
Collie.	Pace.
Cotten.	Poage.
Davis.	Rawlings.
DeBerry.	Redditt.
Duggan.	Regan.
Fellbaum.	Sanderford.
Hill.	Shivers.
Holbrook.	Small.
Hopkins.	Stone.
Hornsby.	Westerfeld.
Hughston.	Woodruff.
Martin.	

Absent—Excused.

Sulak.	Van Zandt.
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Senate Resolution No. 38.

Senator Burns received unanimous consent to send up the following resolution:

Be It Resolved That Senate Rule No. 80 be amended so as to read as follows:

"Nominations shall be acted on in executive session only. The Senate, while sitting in executive session, to consider confirmations may, by a majority vote of those present, direct that the vote to confirm or reject any such nomination be taken by a secret ballot. If a secret ballot is ordered, the Secretary shall call the roll of the names of the Senate in alphabetical order and, as each Senator's name is called, he shall cast his ballot expressing his preference by voting "yea," "nay," or "present" as he may desire. The motion for a secret ballot shall not be debatable and shall be in order at any time before the roll call is ordered on the nomination. Any member desiring to move to reconsider the action of the Senate on any such confirmation may be privileged to do so, after disclos-

ing that he has voted on the prevailing side."

BURNS,	FELLBAUM,
COTTON,	HOLBROOK,
MARTIN,	HORNSBY.
HUGHSTON,	HILL,
NEAL,	SHIVERS,
DUGGAN,	

Read and referred to the Committee on Rules.

House Bill No. 217.

Senator Beck called up H. B. No. 217.

On motion of Senator Beck, and by an affirmative vote of four-fifths of the membership of the Senate, the constitutional rule relating to the passage of general bills during the first 40 days of the session was suspended and consent was granted to take up and consider the following bill by the following vote:

Yeas—29.

Beck.	Moore.
Blackert.	Neal.
Burns.	Oneal.
Collie.	Pace.
Cotten.	Poage.
Davis.	Rawlings.
DeBerry.	Redditt.
Duggan.	Regan.
Fellbaum.	Sanderford.
Hill.	Shivers.
Holbrook.	Small.
Hopkins.	Stone.
Hornsby.	Westerfeld.
Hughston.	Woodruff.
Martin.	

Absent—Excused.

Sulak.	Van Zandt.
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By Mr. Russell:

H. B. No. 217, A bill to be entitled "An Act granting to G. W. Witt of Cookville, Titus County, Texas, permission to bring suit against the State of Texas and the State Highway Department in the District Court of Titus County, Texas, for damages sustained to his property and improvements and grass and crops, and permanent damages to his land, on account of fire destruction of meadow and improvements, etc., and declaring an emergency."

Senator Woodruff asked unanimous consent to change the venue of the suit.

Senator Moore objected.

Sneator Woodruff sent up the following amendment to H. B. No. 217: Amend H. B. No. 217 by changing the venue from Titus to Travis County, Texas.

WOODRUFF.

Motion to Table.

Senator Hornsby moved to table the amendment.

The motion to table prevailed by viva voce vote.

The committee report recommending that the bill be printed was adopted by unanimous consent.

The bill was read second time and passed to third reading by viva voce vote.

On motion of Senator Beck, the constitutional rule requiring bills to be read on three several days was suspended and H. B. No. 217 was put on its third reading and final passage by the following vote:

Yeas—29.

Beck.	Moore.
Blackert.	Neal.
Burns.	Oneal.
Collie.	Pace.
Cotten.	Poage.
Davis.	Rawlings.
DeBerry.	Redditt.
Duggan.	Regan.
Fellbaum.	Sanderford.
Hill.	Shivers.
Holbrook.	Small.
Hopkins.	Stone.
Hornsby.	Westerfeld.
Hughston.	Woodruff.
Martin.	

Absent—Excused.

Sulak. Van Zandt.

Read third time and finally passed by the following vote:

Yeas—29.

Beck.	Hornsby.
Blackert.	Hughston.
Burns.	Martin.
Collie.	Moore.
Cotten.	Neal.
Davis.	Oneal.
DeBerry.	Pace.
Duggan.	Poage.
Fellbaum.	Rawlings.
Hill.	Redditt.
Holbrook.	Regan.
Hopkins.	Sanderford.

Shivers.
Small.
Stone.

Westerfeld.
Woodruff.

Absent—Excused.

Sulak.

Van Zandt.

Messages From the House.

The Chair recognized the Doorkeeper, who introduced a messenger from the House with the following messages:

Hall of the House of Representatives,
Austin, Texas, Feb. 7, 1935.

Hon. Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has refused to concur in Senate amendments to H. C. R. No. 6 by a vote of 102 yeas and 40 nays.

Respectfully submitted,
LOUISE SNOW PHINNEY,
Chief Clerk, House of Representatives.

Hall of the House of Representatives,
Austin, Texas, Feb. 7, 1935.

Hon. Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 47, A bill to be entitled "An Act to amend Sections 3, 5, 11, and 16 of House Bill No. 500, the Acts of the Regular Session of the Forty-second Legislature, and declaring an emergency."

H. B. No. 53, A bill to be entitled "An Act to fix the salaries and compensation of county commissioners in counties with a population of not less than five thousand two hundred and fifty-three (5,253) inhabitants, nor more than five thousand two hundred and ninety (5,290) inhabitants, according to the last Federal census; and counties with a population of not less than seven thousand six hundred and forty-five (7,645) inhabitants, nor more than seven thousand six hundred and ninety (7,690) inhabitants, according to the last Federal census as to population, and providing for the manner and the funds from which said salary shall be paid; repealing all laws in conflict herewith, and declaring an emergency."

H. B. No. 81, A bill to be entitled "An Act extending and enlarging the territorial boundaries and corporate limits of the City of Texas City, so as

to include within such boundaries and limits an uninhabited parcel of land owned by said city and contiguous to the present boundaries thereof, and declaring an emergency."

H. B. No. 132, A bill to be entitled "An Act amending Article 2350, Chapter 44, of the Revised Civil Statutes of Texas, 1925, as amended by Act of the Thirty-ninth Legislature, Regular Session, Chapter 135, Section 1; and as amended by Act of the Fortieth Legislature, page 435, Chapter 490, Section 1, etc., and declaring an emergency."

H. B. No. 225, A bill to be entitled "An Act to amend Acts of 1927, Fortieth Legislature, First Called Session, Chapter 80, by adding thereto Section 9a, providing for the levying of a tax annually against the property in each of the counties composing a road district composed of two or more counties, for the purpose of securing rights of way within such district for such highways as such districts were created to construct, maintain and operate or acquire, and for the maintenance of such district highways as are not maintained by the State as State Highways, and declaring an emergency."

H. B. No. 258, A bill to be entitled "An Act to fix the salaries and compensation of county commissioners in counties with a population of not less than 15,650 nor more than 15,700, according to the last Federal census, and in counties with a population of not less than 9,400 nor more than 9,500, according to the last Federal census, and declaring an emergency."

H. B. No. 309, A bill to be entitled "An Act to fix the salaries of county commissioners in counties with a population of not less than 42,100 and not more than 42,600, according to the last Federal census, and declaring an emergency."

H. B. No. 408, A bill to be entitled "An Act fixing the compensation of county commissioners in every county having a population of not less than fifteen thousand nine hundred and seventy-five (15,975) nor more than sixteen thousand and twenty-five (16,025) inhabitants, according to the last preceding United States census, and providing how same shall be paid; providing that such shall be the salary of said commissioners so long as the taxable values in said counties shall exceed

the sum of four million one hundred thousand dollars (\$4,100,000) for the next preceding year; providing that all laws or parts of laws in conflict with this Act are hereby expressly repealed, and declaring an emergency."

H. B. No. 416, A bill to be entitled "An Act to establish a system of public roads and bridges for all counties in this State having a population of more than one hundred and sixty thousand (160,000) inhabitants and less than two hundred and thirty thousand (230,000) inhabitants, according to the last preceding Federal census, wherein is situated an incorporated city having a population in excess of one hundred thousand (100,000) inhabitants, according to the last preceding Federal census, and to empower the commissioners courts thereof to provide rules and regulations therefor, etc., and declaring an emergency."

Respectfully submitted,

LOUISE SNOW PHINNEY,
Chief Clerk, House of Representatives.

Hall of the House of Representatives,
Austin, Texas, Feb. 7, 1935.

Hon. Walter F. Woodul, President of
the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following resolution:

S. C. R. No. 14, Granting permission to the Hon. J. D. Campbell, Judge of the 60th District Court of Texas, to be absent from the State of Texas, at such times as he may see fit, during the years of 1935 and 1936.

Respectfully submitted,

LOUISE SNOW PHINNEY,
Chief Clerk, House of Representatives.

Hall of the House of Representatives,
Austin, Texas, Feb. 7, 1935.

Hon. Walter F. Woodul, President of
the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

S. B. No. 57, A bill to be entitled "An Act authorizing counties, municipalities, political subdivisions and taxing districts to sell to the Reconstruction Finance Corporation, or any other governmental agency, at less than par, and/or to compromise or adjust bonds held by it by selling and/or exchanging the same to the Reconstruction Finance Corporation,

or any other governmental agency, at an agreed price which may be less than par; and declaring an emergency."

S. B. No. 109, A bill to be entitled "An Act providing that in counties having a population of more than 48,000 as shown by the Federal census of 1930, and containing a city of more than 10,000 population, as shown by the Federal census of 1930, located in a justice precinct other than that in which is located the county site in such county, the sheriff of such county may appoint as many deputies as the commissioners' court of such county may deem necessary, and declaring an emergency."

(With amendments.)

S. B. No. 186, A bill to be entitled "An Act appropriating seven thousand three hundred fifty dollars (\$7,350.00), or so much thereof as may be necessary, out of any funds in the State Treasury not otherwise appropriated to pay the salaries of the three District Judges of the Special District Courts for Smith County, Rusk County, and Gregg County; and declaring an emergency."

Respectfully submitted,

LOUISE SNOW PHINNEY,
Chief Clerk, House of Representatives.

Bills Referred.

H. B. No. 408, referred to the Committee on County and County Boundaries.

H. B. No. 258, referred to the Committee on County and County Boundaries.

H. B. No. 309, referred to the Committee on County and County Boundaries.

H. B. No. 416, referred to the Committee on State Affairs.

H. B. No. 47, referred to the Committee on Agricultural Affairs.

H. B. No. 53, referred to the Committee on County and County Boundaries.

H. B. No. 81, referred to the Committee on Towns and City Corporations.

H. B. No. 132, referred to the Committee on County and County Boundaries.

H. B. No. 225, referred to the Committee on Highways and Motor Traffic.

House Bill No. 197.

Senator Oneal called from the ta-

ble H. B. No. 197, which had been read the second time:

H. B. No. 197, A bill to be entitled "An Act to promote and make practical the conservation and timely utilization of the natural resources of the State in compliance with the intent and command of Section 59 of Article XVI of the Constitution; and etc."

Pending.

House Bill No. 416.

Senator Rawlings asked unanimous consent to suspend the regular order of business and to take up for consideration H. B. No. 416.

There was objection.

Senator Rawlings moved to suspend the regular order of business to take up and consider H. B. No. 416.

The motion prevailed by the following vote:

Yeas—28.

Beck.	Moore.
Blackert.	Neal.
Burns.	Oneal.
Collie.	Pace.
Cotten.	Poage.
Davis.	Rawlings.
Duggan.	Redditt.
Fellbaum.	Regan.
Hill.	Sanderford.
Holbrook.	Shivers.
Hopkins.	Small.
Hornsby.	Stone.
Hughston.	Westerfeld.
Martin.	Woodruff.

Present—Not Voting.

DeBerry.

Absent—Excused.

Sulak.

Van Zandt.

By Mr. Duvall (by request):

H. B. No. 416, A bill to be entitled "An Act to establish a system of public roads and bridges for all counties in this State having a population of more than one hundred and sixty thousand (160,000) inhabitants and less than two hundred and thirty thousand (230,000) inhabitants, according to the last preceding Federal census, wherein is situated an incorporated city having a population in excess of one hundred thousand (100,000) inhabitants, according to the last preceding Federal Census,

and to empower the commissioners' courts thereof to provide rules and regulations therefor, etc., and declaring an emergency."

The rule requiring committee reports to lie over one day was suspended by unanimous consent.

The committee report recommending that the bill be not printed was adopted by unanimous consent.

The committee amendments were adopted by viva voce vote.

On motion of Senator Rawlings the constitutional rule requiring bills to be read on three several days was suspended and H. B. No. 416 was put on its second reading by the following vote:

Yeas—29.

Beck.	Moore.
Blackert.	Neal.
Burns.	Oneal.
Collie.	Pace.
Cotten.	Poage.
Davis.	Rawlings.
DeBerry.	Redditt.
Duggan.	Regan.
Fellbaum.	Sanderford.
Hill.	Shivers.
Holbrook.	Small.
Hopkins.	Stone.
Hornsby.	Westerfeld.
Hughston.	Woodruff.
Martin.	

Absent—Excused.

Sulak. Van Zandt.

The bill was read second time and passed to third reading by viva voce vote.

On motion of Senator Rawlings the constitutional rule requiring bills to be read on three several days was suspended and H. B. No. 416 was put on its third reading and final passage by the following vote:

Yeas—29.

Beck.	Hornsby.
Blackert.	Hughston.
Burns.	Martin.
Collie.	Moore.
Cotten.	Neal.
Davis.	Oneal.
DeBerry.	Pace.
Duggan.	Poage.
Fellbaum.	Rawlings.
Hill.	Redditt.
Holbrook.	Regan.
Hopkins.	Sanderford.

Shivers.
Small.
Stone.

Westerfeld.
Woodruff.

Absent—Excused.

Sulak. Van Zandt.

Read third time and finally passed by the following vote:

Yeas—29.

Beck.	Moore.
Blackert.	Neal.
Burns.	Oneal.
Collie.	Pace.
Cotten.	Poage.
Davis.	Rawlings.
DeBerry.	Redditt.
Duggan.	Regan.
Fellbaum.	Sanderford.
Hill.	Shivers.
Holbrook.	Small.
Hopkins.	Stone.
Hornsby.	Westerfeld.
Hughston.	Woodruff.
Martin.	

Absent—Excused.

Sulak. Van Zandt.

Senate Bill No. 61.

Senator Hopkins asked unanimous consent to rerefer S. B. No. 61 from the Committee on Highways and Motor Traffic to the Committee on State Affairs.

Consent was granted.

Resolution Signed.

The Chair, Lieutenant Governor Walter F. Woodul, gave notice of signing, and did sign, in the presence of the Senate, after its caption had been read, the following resolution: S. C. R. No. 11.

Motion to Adjourn.

Senator Sanderford at 12:15 o'clock p. m., moved that the Senate adjourn until 10 o'clock a. m., Friday.

Senator Pace moved as a substitute that the Senate recess until 10 o'clock a. m., Friday.

Adjournment.

The motion to adjourn prevailed by viva voce vote.

APPENDIX.

Committee Reports.

Committee Room,
Austin, Texas, Feb. 7, 1935.
Hon. Walter F. Woodul, President of
the Senate.

Sir: We, your Committee on State
Affairs, to whom was referred

H. B. No. 416, A bill to be entitled
"An Act to establish a system of public
roads and bridges for all counties
in this State having a population of
more than one hundred and sixty
thousand (160,000) inhabitants and
less than two hundred and thirty
thousand (230,000) inhabitants according
to the last preceding Federal
census, wherein is situated an incorporated
city having a population in excess of
one hundred thousand (100,000) inhabitants
according to the last preceding Federal
census, and to empower the commissioners'
courts thereof, to provide rules and
regulations therefor; etc., and declaring
an emergency."

Have had the same under consideration,
and I am instructed to report it back to
the Senate with the recommendation that
it do pass, with committee amendments
Nos. 1 and 2, and that it be not printed.

PACE, Chairman.

Committee Amendment No. 1.

Amend H. B. No. 416, Section 15,
by striking out the words and figures
"Thirty-six Hundred Dollars (\$3,600.00)"
in said section and insert in lieu thereof
"Forty-two Hundred Dollars (\$4,200.00)."

Committee Amendment No. 2.

Amend the caption of H. B. No. 416,
by inserting before the words "and
declaring an emergency" the following:

Providing for issuance of bonds for
construction of permanent roads and
bridges and submission of the question
to the property owning qualified voters
of the county; making this Act a public
Act; providing this Act shall be cumulative
of all General Laws on this subject, but
where conflicting this Act shall control in
said county; providing a saving clause.

Committee Room,
Austin, Texas, Feb. 6, 1935.
Hon. Walter F. Woodul, President of
the Senate.

Sir: We, your Committee on Highways
and Motor Traffic, to whom was referred

S. B. No. 233, A bill to be entitled
"An Act to amend Section 14, Chapter 186,
S. B. No. 74, passed at the Regular Session,
Thirty-ninth Legislature, as amended by
Chapter 10, S. B. No. 24, passed at the Third
Called Session, Forty-first Legislature, as
amended by Chapter 79, S. B. No. 82, passed
at the Fifth Called Session, Forty-first
Legislature, as amended by Chapter 207,
S. B. No. 531, passed at the Regular Session,
Forty-third Legislature, so as to correct the
reference to Article 6674n, in Section 1,
Chapter 207, Acts of Regular Session,
Forty-third Legislature, and making same
refer to Section 14, Chapter 186, S. B. No. 74,
passed at the Regular Session, Thirty-ninth
Legislature; etc., and declaring an emergency."

Have had the same under consideration,
and I am instructed to report it back to the
Senate with the recommendation that it do
pass, and be printed.

HOPKINS, Chairman.

Committee Room,
Austin, Texas, Feb. 7, 1935.
Hon. Walter F. Woodul, President of
the Senate.

Sir: We, your Committee on Towns
and City Corporations, to whom was referred

S. B. No. 4, A bill to be entitled
"An Act authorizing municipalities, political
subdivisions and taxing districts to proceed
under the provisions of Federal Bankruptcy
Laws enacted for the relief of such municipalities,
political subdivisions and taxing districts
and declaring an emergency."

Have had the same under consideration,
and I am instructed to report it back to the
Senate with the recommendation that it do
pass, and be printed.

RAWLINGS, Chairman.

Committee Room,
Austin, Texas, Feb. 5, 1935.
Hon. Walter F. Woodul, President of
the Senate.

and

Hon. Coke Stevenson, Speaker of the
House.

Sirs: We, your Committee on
Crime Investigation, authorized by

S. R. No. 26, beg leave to submit the following report.

BECK, Chairman.

(This report will be found on page 267.)

Committee Room,
Austin, Texas, Feb. 6, 1935.
Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Towns and City Corporations, to whom was referred

S. B. No. 6, A bill to be entitled "An Act regulating the introduction of testimony in any case where a petitioner seeks an injunction to enjoin the enforcement of rates fixed by any rateseking body empowered by the laws of this State to fix the particular rate complained of, said Act to be known as Article 4663-a of the Revised Civil Statutes of Texas 1925; repealing all laws and parts of laws in conflict with the provisions of this Act; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

RAWLINGS, Chairman.

Committee Room,
Austin, Texas, Feb. 6, 1935.
Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Towns and City Corporations, to whom was referred

S. B. No. 67, A bill to be entitled "An Act to amend S. B. No. 68, Chapter 106, beginning on page 489 General and Special Laws of the First Called Session of the Fortieth Legislature, entitled, 'An Act to authorize incorporated cities, towns, and villages incorporated under either General or Special Laws, including those operating under a special charter or amendments of charter adopted pursuant to Home Rule provisions of the Constitution, to cause to be improved streets, avenues, alleys, highways, boulevards, drives, public places, squares and any portion or portions thereof, and to assess the cost thereof against abutting property owners thereof, etc.,' providing for more adequate notice in the letting of contracts, etc., repealing all

laws in conflict herewith and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

RAWLINGS, Chairman.

Committee Room,
Austin, Texas, Feb. 7, 1935.
Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence, to whom was referred

S. B. No. 17, A bill to be entitled "An Act amending Article 650 of the Code of Criminal Procedure of the State of Texas, and repealing Article 651 and Article 711 of the Code of Criminal Procedure of the State of Texas, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

STONE, Chairman.

Minutes of Committee Meetings.

Minutes of the Committee on Finance
February 6, 1935.

(After Recess.)

Present: Redditt, Beck, Burns, Duggan, Hill, Holbrook, Hornsby, Hopkins, Hughston, Martin, Neal, Oneal, Poage, Rawlings, Regan, Sanderford, Stone, Van Zandt and Woodruff.

Absent-Excused: Sulak and Small.

S. R. No. 23, reported favorably with amendment.

S. R. No. 31, reported favorably with amendment.

NOEL K. BROWN, Secretary.

TWENTY-THIRD DAY.

Senate Chamber,
Austin, Texas,
February 8, 1935.

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor Walter F. Woodul.

The roll call disclosed a quorum, the following Senators being present: